

**CASE**

**NUMBER:**

99-050

IN THE MATTER OF THE DEVIATION FOR NORTH MARSHALL WATER  
DISTRICT DUE TO A WIDE VARIATION IN AVERAGE COST PER FOOT  
AND THE RESULTING VARIATION IN REFUNDS

SEQ NBR	ENTRY DATE	REMARKS
0001	02/08/1999	Application
0002	02/09/1999	Acknowledgement letter.
M0001	03/23/1999	BESSIE ELLIOTT CITIZEN-REQUEST FOR FINAL DECISION ON CASE, REFUNDS TO DEVELOPERS
M0002	04/13/1999	BESSIE ELLIOTT CITIZEN-LETTER CONCERNING INTERVENTION TO CASE
0003	04/15/1999	Order granting Bessie Elliott intervention
0004	04/28/1999	Data Request Order, response due 5/18/99.
M0003	05/18/1999	JEFFERY EDWARDS NORTH MARSHALL WD-RESPONSE TO ORDER OF APRIL 28, 1999
M0004	06/28/1999	BESSIE ELLIOTT CITIZEN-REQUEST TO FULL INVESTIGATION INTO EMPLOYEES & WATERLINE
M0005	07/06/1999	B.W. DARNELL NORTHMARSHALL WD-TARIFF
0005	08/19/1999	Data Request Order; response due 9/8
M0007	09/10/1999	JEFFERY EDWARDS NORTH MARSHALL WD-MOTION FOR EXTENSION OF TIME
0006	09/17/1999	Order granting motion for extension of time; info now due 10/8
M0008	10/08/1999	JEFFERY EDWARDS NORTH MARSHALL WD-RESPONSE TO ORDER OF AUG 19.99
M0009	11/05/1999	BESSIE ELLIOTT CITIZEN-LETTER IN RESPONSE TO QUESTIONS SENT TO NORTH MARSHALL AUG 9, 99
0007	04/10/2000	FINAL ORDER; DENIES REQUESTED WATER MAIN EXTENSION ARRANGEMENT



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-050  
NORTH MARSHALL WATER DISTRICT

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on April 10, 2000.

Parties of Record:

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

Ms. Bessie Elliott  
3981 U.S. Hwy 68W  
Benton, KY. 42025

Honorable Jeffrey G. Edwards  
Attorney for North Marshall Water  
P.O. Box 472  
Benton, KY. 42025

*Stephanie J. Bell*

Secretary of the Commission

SB/sa  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT'S )  
PROPOSED RULES FOR WATER MAIN ) CASE NO. 99-050  
EXTENSIONS TO REAL ESTATE SUBDIVISIONS )

ORDER

North Marshall Water District ("North Marshall") has applied for Commission approval of a water main extension arrangement that differs from those set forth in Administrative Regulation 807 KAR 5:066, Section 11. It seeks to limit its refund liability to real estate subdivision developers financing the cost of a water main extension to \$150 per customer connecting to that extension. Finding that North Marshall has failed to demonstrate good cause for the differing arrangement, we deny its application.

North Marshall, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that produce and distribute water for compensation to approximately 4,672 customers in Marshall County, Kentucky. For the year ending December 31, 1998, North Marshall had net utility plant of \$4,671,135; total operating revenues of \$951,508; and net operating income of \$121,934.

North Marshall proposes to limit its refund liability to real estate subdivision developers financing the cost of a water main extension to \$150 per customer connecting to that connection. Administrative Regulation 807 KAR 5:066, Section 11(3), currently requires North Marshall to refund to a real estate subdivision developer "a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year."

North Marshall argues that its proposed revision is necessary to provide the water district with greater control over the cost of water main extensions and to ensure that refunds to subdivision developers are equitable.<sup>1</sup> It states that refunds to real estate subdivision developers in 1998 ranged from \$172 per customer to \$531 per customer.<sup>2</sup> This variance in the size of refunds, it asserts, is related to the number of fire hydrants placed on water main extensions and subdivision water main extensions that exceed minimum construction standards.<sup>3</sup>

The Commission finds that North Marshall's proposed revision is flawed in several respects. First, neither analyses nor studies of North Marshall's past water main extensions have been conducted; nor has any study of the proposed cap of \$150 per customer been conducted. North Marshall has provided no evidence to support the level of the proposed cap and no explanation to clarify how it established the cap's level.<sup>4</sup>

Second, the proposed cap bears no correlation to historic trends. The proposed limit does not equal refunds made in 1998 for the least costly water line extensions.<sup>5</sup> Nor would it equal the average refund that North Marshall made for non-subdivision developer water main extensions between 1996 and 1998. The proposed cap is less

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<sup>1</sup> Letter from B.W. Darrell, Chairman, North Marshall Water District, to Helen Helton, Executive Director, Public Service Commission at 1 (Feb. 5, 1999).

<sup>2</sup> Id.

<sup>3</sup> North Marshall's Response to the Commission's Order of April 28, 1999, Item 2(a)(2).

<sup>4</sup> North Marshall originally intended to eliminate subdivision developer refunds. See North Marshall's Response to the Commission's Order of April 28, 1999, Item 3.

<sup>5</sup> See supra text accompanying note 2.

than half of the average refund made to subdivision developers between 1996 and 1998.

TABLE I

Year	Total Amount of Refunds	Total Number of Refunds	Average Refund	Total Amount of Subdivision Developer Refunds	Total Number of Subdivision Developer Refunds	Average Subdivision Developer Refund	Average Non-Subdivision Developer Refund
1996	\$5,964.50	28	\$ 213.02	\$2,646.00	11	\$ 240.55	\$ 195.21
1997	\$18,932.72	83	\$ 228.11	\$12,507.36	48	\$ 260.57	\$ 183.58
1998	\$16,983.00	51	\$ 333.00	\$15,267.00	39	\$ 391.46	\$ 143.00
<b>Total</b>	<b>\$41,880.22</b>	<b>162</b>	<b>\$ 258.52</b>	<b>\$30,420.36</b>	<b>98</b>	<b>\$ 310.41</b>	<b>\$ 179.06</b>

Source: North Marshall's Response to PSC Order of 4/29/1999, Item 1.

Third, North Marshall has failed to consider other cost control measures in lieu of the proposed revision. North Marshall's tariff currently does not require a real estate subdivision developer to advertise for bids for his proposed water main extensions or to grant the water district the right of first refusal to construct the proposed extension. It does not specify maximum construction standards or limit the water district's refund obligations when a real estate developer unreasonably exceeds the water district's minimum construction standards. It, moreover, does not confer upon North Marshall the authority to remove fire hydrants from proposed water main extensions when such hydrants are unnecessary or not feasible.<sup>6</sup> Revising North Marshall's tariff to include these controls should be considered and implemented before the imposition of any refund cap.

Fourth, neither a developer nor a water utility controls all factors affecting the cost of a water main extension. A significant portion of the cost of a water main

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<sup>6</sup> KRS 74.415(2) permits North Marshall to eliminate fire hydrants from new or extended water lines if it determines that they are not feasible. The utility must still have rules on file with the Commission to exercise this right. See KRS 278.030; KRS 278.160.

extension is directly related to the soil composition of the area in which the water main is placed. Installing water mains in rocky terrain is more expensive than areas with loose soil. North Marshall's proposed cap makes no provision for such instances. As a result, it will discourage water main extensions to areas with rocky soil conditions.

Fifth, the evidence of record does not suggest that refunds to subdivision developers for water main extensions are out of control or represent a serious threat to the water district's financial condition. The total amount of refunds that North Marshall made to subdivision developers in 1998 represents less than 7 percent of its total utility operating income, less than 2 percent of its utility operating revenues, and less than 1 percent of its net utility plant. While the nominal amount of refunds to subdivision developers have increased in the last three years by \$12,620, this increase merely reflects that a larger portion of North Marshall's customer growth now results from subdivision development.

TABLE II

Year	Total Number of Customers	Increase In Customers	Number of New Customer from Subdivision developments	Percentage of New Customers Due to Subdivision Development
1995	4,209	-	-	-
1996	4,360	151	28	19%
1997	4,490	130	83	64%
1998	4,672	182	51	28%

Sources: North Marshall Annual Reports for Calendar Years 1996-1998  
 North Marshall's Response to PSC Order of 4/29/1999, Item 1.

Finally, the proposed revision unreasonably discriminates against real estate subdivision developers. While it argues that cost controls on water main extensions are necessary, North Marshall does not propose any limitations on refunds to non-subdivision developers. North Marshall argues that this disparate treatment is

appropriate because non-subdivision water main extensions have no profit motive<sup>7</sup> and most applicants for service from such water main extensions are less capable of absorbing the cost of the water main extension.<sup>8</sup>

The Commission finds these arguments are without merit. The presence of a profit motive is not sufficient grounds to justify disparate treatment of customers. Moreover, as the presence of water service generally increases a property's value, it is likely a "profit motive" is also behind other non-subdivision developer water main extensions. A utility has an obligation to make reasonable extensions of service. KRS 278.280(3). The economics of subdivision developer water main extension, therefore, not its purpose, should determine whether that type of extension should be treated differently than other types. North Marshall has failed to present any evidence that subdivision developer water main extensions are more costly or financially burdensome to it than are extensions made for the benefit of persons who are not developers.

Likewise, North Marshall has presented no evidence to support its claim that persons connecting to non-subdivision developer water main extensions are less financially able to absorb the cost of an extension than are customers connecting to

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<sup>7</sup> See North Marshall's Response to the Commission's Order of April 28, 1999, Item 7(b) ("The reason we chose to not limit refunds to non-subdivision developers is the fact that they are not generally constructing an extension for the purpose of increasing their land value and making a profit [from] the sale of the lot.").

<sup>8</sup> North Marshall's Response to the Commission's Order of April 28, 1999, Item 7(c) ("Those purchasing lots [from subdivision developers] will most likely be in better financial circumstances and better prepared to pay than non-subdivision customers. Non-subdivision customers . . . are often made up of low to middle income families.").

subdivision developer water main extensions.<sup>9</sup> Assuming arguendo that such evidence had been presented, we have previously held that a customer's ability to pay is not an appropriate factor to consider in establishing utility rates. See Kentucky Power Co., Case No. 91-066 (Ky.P.S.C. Oct. 31, 1991); Louisville Gas & Electric Co., Case No. 10320 (Ky.P.S.C. Nov. 3, 1989).

Based upon the above discussion and having considered the evidence of record, the Commission finds that North Marshall has failed to demonstrate good cause for its requested water main extension arrangement and that such water main extension arrangement should be denied.

IT IS THEREFORE ORDERED that North Marshall's requested water main extension arrangement is denied.

Done at Frankfort, Kentucky, this 10th day of April, 2000.

By the Commission

ATTEST:

  
Executive Director

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<sup>9</sup> See North Marshall's Response to the Commission's Order of August 19, 1999, Item 8.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 17, 1999

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

Ms. Bessie Elliott  
3981 U.S. Hwy 68W  
Benton, KY. 42025

Honorable Jeffrey G. Edwards  
Attorney for North Marshall Water  
P.O. Box 472  
Benton, KY. 42025

RE: Case No. 99-050

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie Bell*  
Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT'S	)	
PROPOSED RULES FOR WATER MAIN	)	CASE NO.
EXTENSIONS TO REAL ESTATE	)	99-050
SUBDIVISIONS	)	

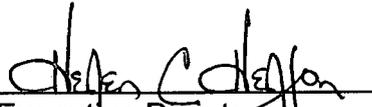
O R D E R

North Marshall Water District ("North Marshall") having moved for a 30-day extension of time in which to respond to the Commission's August 19, 1999 Order and the Commission finding good cause, IT IS HEREBY ORDERED that North Marshall's motion is granted and its response is now due October 8, 1999.

Done at Frankfort, Kentucky, this 17th day of September, 1999.

By the Commission

ATTEST:

  
Executive Director

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

NORTH MARSHALL WATER	)	
DISTRICT'S PROPOSED RULES	)	
FOR WATER MAIN EXTENSIONS	)	CASE NO.
TO REAL ESTATE SUBDIVISIONS	)	99-050

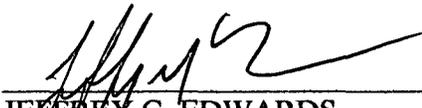
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 SEP 10 1999  
 PUBLIC SERVICE  
 COMMISSION

**MOTION FOR EXTENSION OF TIME**

Comes now the North Marshall Water District ("North Marshall") and respectfully requests an extension of time in complying with the Order dated August 19, 1999. In support of said request, North Marshall states as follows:

1. The Order dated August 19, 1999 sets forth a twenty(20) day period in which North Marshall is to respond.
2. That there are several requests contained wherein requesting information from North Marshall.
3. In order for North Marshall to appropriately respond an additional thirty(30) days is requested in which to properly comply with the Order.

Dated this the 3 day of September, 1999.

  
 \_\_\_\_\_  
 JEFFREY G. EDWARDS  
 MARSHALL COUNTY ATTORNEY  
 P.O. BOX 472  
 BENTON, KY 42025

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion was mailed by U.S. Mail on this the 3 day of September, 1999 to Ms. Helen Helton , Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Ky 40602.

  
\_\_\_\_\_  
JEFFREY G. EDWARDS  
MARSHALL COUNTY ATTORNEY



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 19, 1999

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

Ms. Bessie Elliott  
3981 U.S. Hwy 68W  
Benton, KY. 42025

RE: Case No. 99-050

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie D. Bell*  
Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT'S )  
PROPOSED RULES FOR WATER MAIN ) CASE NO. 99-050  
EXTENSIONS TO REAL ESTATE SUBDIVISIONS )

ORDER

IT IS ORDERED that North Marshall Water District ("North Marshall") shall file the original and 8 copies of the following information with the Commission within 20 days of this Order, with a copy to all parties of record. Each copy of the information requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure its legibility. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this Order.

1. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 2.

a. What are North Marshall's "minimum district specifications for water line installations"?

b. (1) Is the requirement that a developer obtain more than one bid set forth in North Marshall's filed rate schedules?

(2) If no, where is this requirement set forth?

(3) How long has North Marshall required a subdivision developer to obtain two or more bids on a proposed water line extension as a condition to the extension?

c. Does North Marshall have a standard contract for subdivision water main extensions? If yes, provide the contract.

d. (1) What policy, if any, does North Marshall have regarding the placement and number of fire hydrants on a proposed water main extension?

(2) If North Marshall has such a policy, is this policy set forth in North Marshall's filed rate schedules? If no, why not?

(3) If North Marshall does not have a policy regarding the placement and number of fire hydrants on a proposed water main extension, explain why not.

2. Why has North Marshall not proposed additional controls or requirements upon water main extensions if it believes that its existing controls are inadequate?

3. In its response to the Commission's Order of April 28, 1999, Item 2, North Marshall states the controls that it currently exerts on the costs of water main extensions to subdivision developers are inadequate and that it exerts the same controls on the costs of water main extensions to non-subdivision developers.

a. Are the controls that North Marshall exerts on the costs of water main extensions to non-subdivision developers also inadequate? Explain.

b. If North Marshall considers its controls on the cost of water main extensions to non-subdivision developers to be inadequate, state why no changes are proposed for that type of extension.

4. What, if any, studies or analyses did North Marshall perform to determine that refunds to subdivision developers for water main extensions should be limited to \$3.00 per foot? Provide a copy of all studies and analyses performed.

5. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 4. For each extension listed, state its length, expected cost, and number of expected connections.

6. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 5(a). Would the developer of an industrial park be considered a "subdivision developer" under North Marshall's proposed revision? If no, would such a developer be eligible for a greater refund of water extension main costs than a "subdivision developer"?

7. Why should a subdivision developer's efforts to make a profit from the development serve as the basis for limiting his refund for water main extension costs?

8. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 7(c).

a. What studies or analyses has North Marshall performed to reach its conclusion that "[t]hose purchasing lots [from a subdivision developer] will most likely be in better financial circumstances and better prepared to pay than non-subdivision customers"? Provide these studies or analyses.

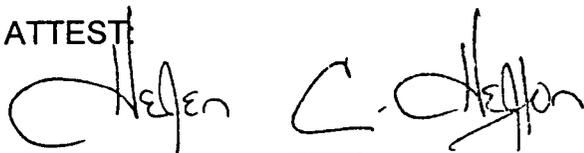
b. What studies or analyses has North Marshall performed to reach its conclusion that "[n]on-subdivision customers living along county and state roads are often made up of low to middle income families"? Provide these studies or analyses.

9. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 8. What studies or analyses has North Marshall performed to reach its conclusion that the effect of its proposed revision would be small?

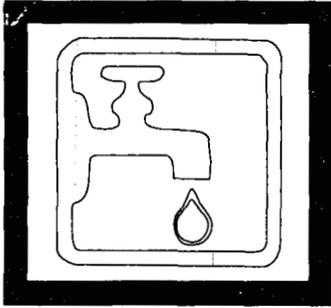
Done at Frankfort, Kentucky, this 19th day of August, 1999.

By the Commission

ATTEST:

 Stephen C. Shelton

Executive Director



# NORTH MARSHALL WATER DISTRICT

56 Frankfort Rd. • Benton, Kentucky 42025 • Telephone (502) 527-3208

## District Superintendent

Bobby Siris

## Commissioners

B.W. Darnell, Chairman

Gary E. Clark, Secretary

Roy C. Brien, Treasurer

Scott Solomon

John R. Travis

RECEIVED  
JUL - 6 1999  
PUBLIC SERVICE  
COMMISSION

Helen Helton, Executive Director  
Public Service Commission  
730 Schenkel Lane  
Frankfort, KY 40601

Dear Ms Helton:

In compliance with the Public Service Commission order dated May 28, 1999, Case No. 98-528, the North Marshall Water District respectfully submit a proposed change to the current Rules and Regulations approved by the Public Service Commission on November 15, 1994. Attached are 8 copies of the revision and 8 copies of the proposed water main extension contract for your review and approval. The Rules and Regulations change is as follows:

\*\* Sheet No 3, MAIN EXTENSIONS, item 19, the line which says "The new customer must pay part of the cost of the main extension for five years" should be deleted.

\*\* Also please note in the matter of Case No. 99-050 now pending before the Commission, Item No. 19 should also reflect the change to ten (10) years.

Sincerely,

B.W. Darnell, Chairman

Attach

Copy  
Miss Bessie Elliott  
3981 U S Hwy 68W  
Benton, KY 42025

Honorable David E. Spenard  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601-8204

Form for filing Rate Schedules

for Entire Area Served.  
Community, Town or City  
P.S.C. NO. 4  
SHEET NO. 3  
Canceling P.S.C. No. \_\_\_\_\_  
SHEET NO. \_\_\_\_\_

North Marshall Water Dist  
Name of Issuing Corporation

CLASSIFICATION OF SERVICE

**MAIN EXTENSIONS**

- 17) All main extensions will be done according to the specifications of the District. All contractors will be furnished a copy of these specs before installing a main.
- 18) All main extensions will be paid for the applicants. The District will furnish 50 feet per tap-on paid, which will be determined by dividing the total feet of extension by the total cost to arrive at a cost per foot. Each applicant will also be required to pay a tap-on fee to establish service. All extensions must be under contract with the District.
- 19) Additional customers will be allowed to tap on to a new main extension per the terms of the contract.
- 20) The District will continue to refund 50 feet per tap-on paid for a period of ten years.
- 21) Under no circumstances will any customers be allowed to get more money refunded than they originally paid for the extension. The tap-on fee is not considered part of the extension.

**SERVICE OUTSIDE BOUNDARIES**

- 22) The North Marshall Water District will serve any individual outside the District's service area in accordance with 807 KAR 5:066, Section 11 of the Rules and Regulations of the Public Service Commission.

**BILLING**

- 23) Water bills will be issued bimonthly, with bills being mailed on or about the twentieth of each even numbered month.

**DELINQUENT PENALTY**

- 24) Water bills will become delinquent after the 10th of the following month in which they are mailed. A 10% late penalty will then be added to the account. The penalty may be assessed only once on any bill for rendered service. The District cannot forgive a late penalty due to postal error (i.e. checks or bills getting lost in the mail). A bill will be considered paid by the District on the date postmarked or date accepted by a collection service (i.e. banks who accept water bill payments).

**TURNOFFS AND RECONNECTS**

- 25) Service will be discontinued after the 27th of the month in which the bills become delinquent. During normal business hours, a \$20.00 reconnect fee plus the amount of the delinquent bill must be paid before service is restored. After normal business hours, a \$35.00 reconnect fee must be paid plus the amount of the delinquent bill before service is restored. Discontinuance of service for failure to pay will be done in compliance with 807 KAR 5:006, Section 14.
- 26) When a customer has service disconnected at one location and connected at another, any delinquent balance at the original location will be due before service will be established at the new location.

DATE OF ISSUE July 15, 1994  
ISSUED BY Bob Barlett  
Name of Officer

DATE EFFECTIVE \_\_\_\_\_  
TITLE Chairman

Issued by authority of an Order of the Public Service Commission of Kentucky  
in Case No. \_\_\_\_\_ dated \_\_\_\_\_.

**NORTH MARSHALL WATER DISTRICT**  
Name of Issuing Corporation

For Entire Area Served  
P.S.C. No. \_\_\_\_\_  
Sheet No. \_\_\_\_\_  
CANCELING P.S.C. No. All  
SHEET NO. 3

**MAIN EXTENSIONS**

- 17) All main extensions will be done according to the specifications of the District. All contractors will be furnished a copy of these specs before installing a main.
- 18) All main extensions in subdivisions will be paid for by the developer. The District will refund an amount equal to 50 feet per tap-on paid, determined by dividing the total cost by the total feet of the extension to arrive at a cost per foot, tap-on paid, determined by dividing the total cost by the total feet of the extension to arrive at a cost per foot, up to a maximum of \$150.00. All main extensions other than for subdivisions will be paid for by the applicants. The District will furnish 50 feet per tap paid, determined by dividing the total cost of the extension by the total feet of the extension to arrive at a cost per foot. Each applicant will also be required to pay a tap-on fee to establish service. All extensions must be under contract with the District.
- 19) Additional customers will be allowed to tap on to a new main extension per the terms of the contract for ten years. The new customers must pay an equal part of the cost of the main extension.
- 20) The District will continue to refund 50 feet per tap-on paid for a period of ten (10) years.
- 21) Under no circumstances will any customers be allowed to get more money refunded than they originally paid for the extension. **The tap-on fee is not considered part of the extension.**

**SERVICE OUTSIDE BOUNDARIES**

- 22) The North Marshall Water District will serve any individual outside the District's service area in accordance with 807KAR 5:066, Section 11 of the Rules and Regulations of the Public Service Commission.

**BILLING**

- 23) Water bills will be issued bimonthly, with bills being mailed on or about the 20th of each even numbered month.

**DELINQUENT PENALTY**

- 24) Water bills will become delinquent after the 10th of the following month in which they are mailed. A 10% late penalty will then be added to the to the account. The penalty may be assessed only once on any bill for rendered service. The District cannot forgive a late penalty due to postal error (i.e. checks or bills getting lost in the mail). A bill will be considered paid by the District on the date postmarked or date accepted by a collection service (i.e. banks who accept water bill payments).

**TURNOFFS AND RECONNECTS**

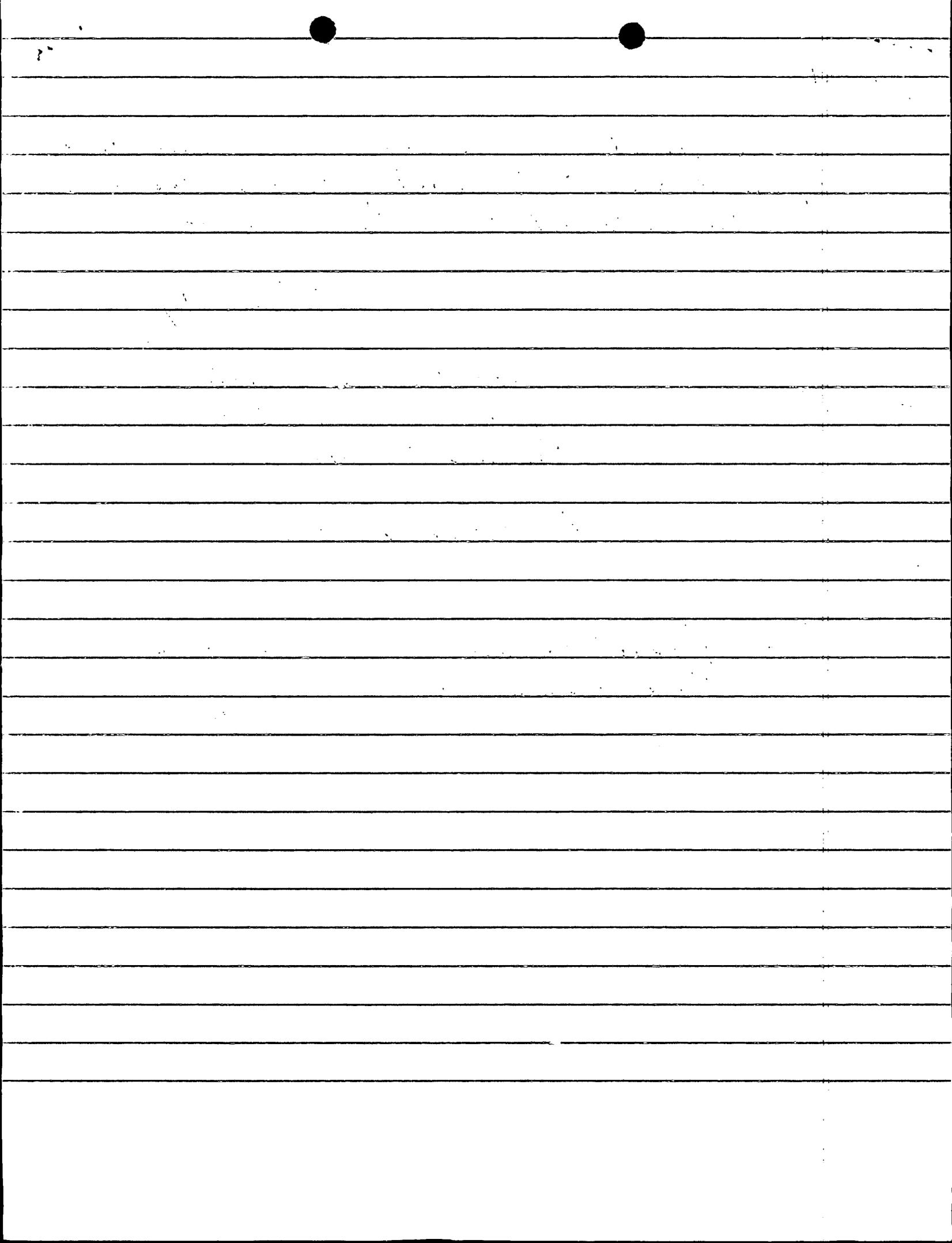
- 25) Service will be discontinued after the 27th of the month in which the bills become delinquent. During normal business hours, a \$20.00 reconnect fee plus the amount of the delinquent bill must be paid before service is restored. After normal business hours, a \$35.00 reconnect fee must be paid plus the amount of the delinquent bill before service is restored. Discontinuance of service for failure to pay will be done in compliance with 807 KAR 5:006, Section 14.

**TRANSFER OF DELINQUENT BALANCE**

- 26) When a customer has service disconnected at one location and connected at another, any delinquent balance at the original location will be due before service will be established at the new location.

DATE OF ISSUE \_\_\_\_\_  
ISSUED BY B. W. Darnell

DATE EFFECTIVE \_\_\_\_\_  
TITLE \_\_\_\_\_



PH 94

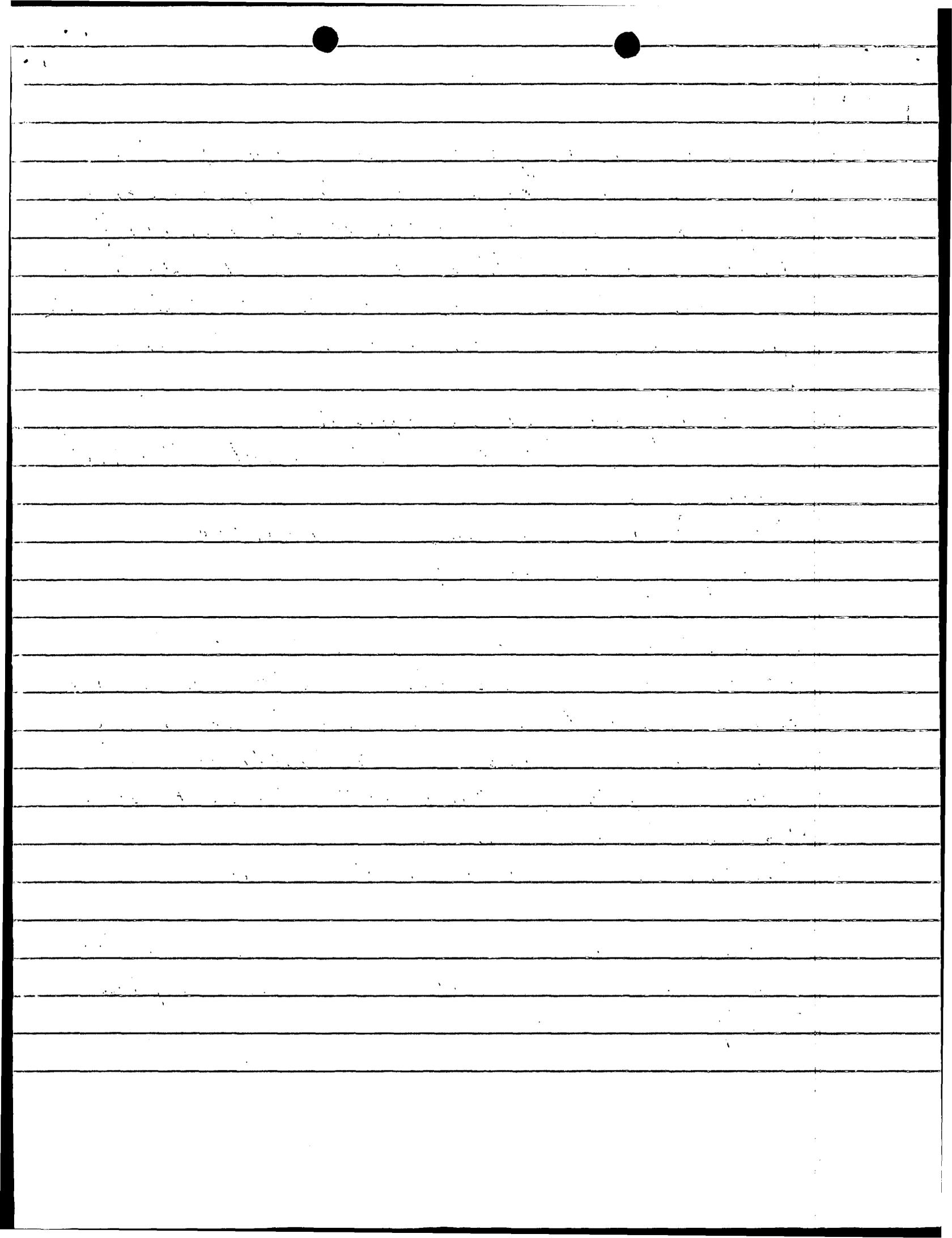
I've stated my reasons why I would like  
for P.S.C. to Investigate This Problem  
in The interest of water Consumers.

Sincerely

Miss Bessie Elliott  
3981 U.S. Hwy 68W.  
Benton Ky 42025

Ph. 502-527-1232

P.S. Please excuse The mistakes no  
Time to rewrite.



p 3 #4

#3 My Question - Why was this not done? Who should be held responsible. The office or field employees. Where were the Commissioners? This was the first time, according to our Senior operator, that the Dist. had took the Distribution operators off this long to lay a water line - 6000' long.

#4 Has anyone got the operators side of the story? Mr Gowins said they had not interviewed the operators.

Should the operators be penalized for carrying out orders?

If we the consumers have to pay the bill it seems we would have a right to know the answers to these questions. I can't see where consumers are at fault. I question is there any thing in the Budget to cover fines for Dist. or Commissioners?

#5 Are the light ones being penalized.

We have P.L. Insurance to cover our Commissioners for years. Should the insurance pay the fine?

P2 of 4

I Talked To Mr Joe Deavers and 6-24-99  
Mr John Gowins (Enforcement Branch of The  
Division of Water.)

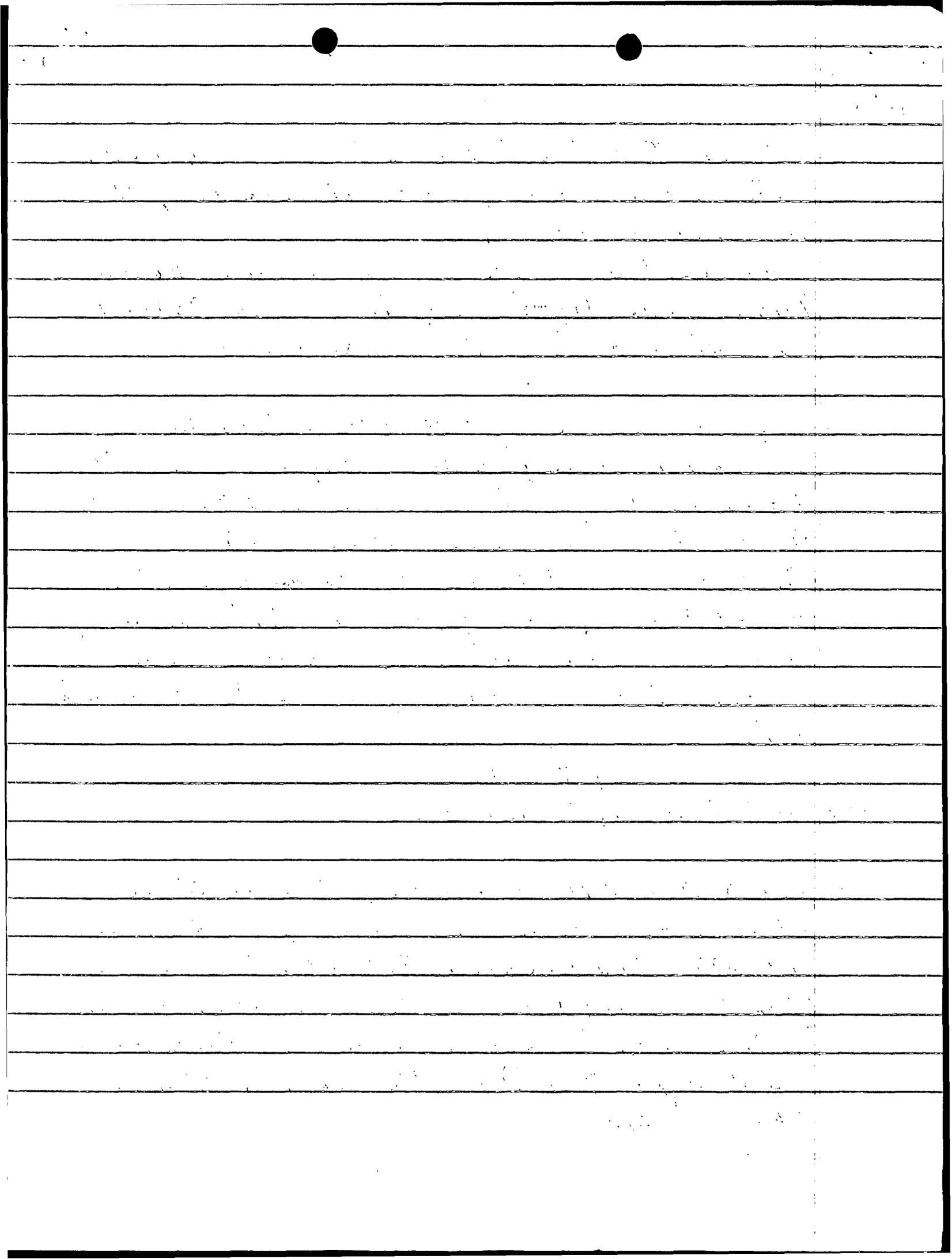
neither one could comment much because  
this is under tight litigation. nor could I  
interview as a water consumer.

#2 by rumors and my talk with Mr Deavers and  
Mr Gowins there is a possibility our Dist. will  
be fined me by \$3,500.00 (rumor) and The Dist's  
Distribution operators will be sent to a  
Disciplinary School in Eastern Ky. All will  
be at the expense of The District. our only  
source of revenue is by sale of water to  
consumers. So we will foot the bill as I see  
this.

### my points

#1 is this being fair to all?

#2 our Supt. and The office help. I understand  
always applied for the permit from Division  
of Water. And handed it to The Contractor, be  
fore The work was started. I cefed with one  
of The small Contractors who has done work  
in<sup>the</sup> past for The Dist. he confirmed this was  
The procedure



P. 174

NORTH MARSHALL R. WATER  
P.O. Box 858 - BENTON, KY 42025  
Ph. 502-527-3208

Case No. 99-050

6-24-99

MRS HILTON HILTON Executive Director  
Public Service Commission  
730 Schenckle Lane  
FRANKFORT KY 42025

RECEIVED  
JUN 28 1999  
PUBLIC SERVICE  
COMMISSION

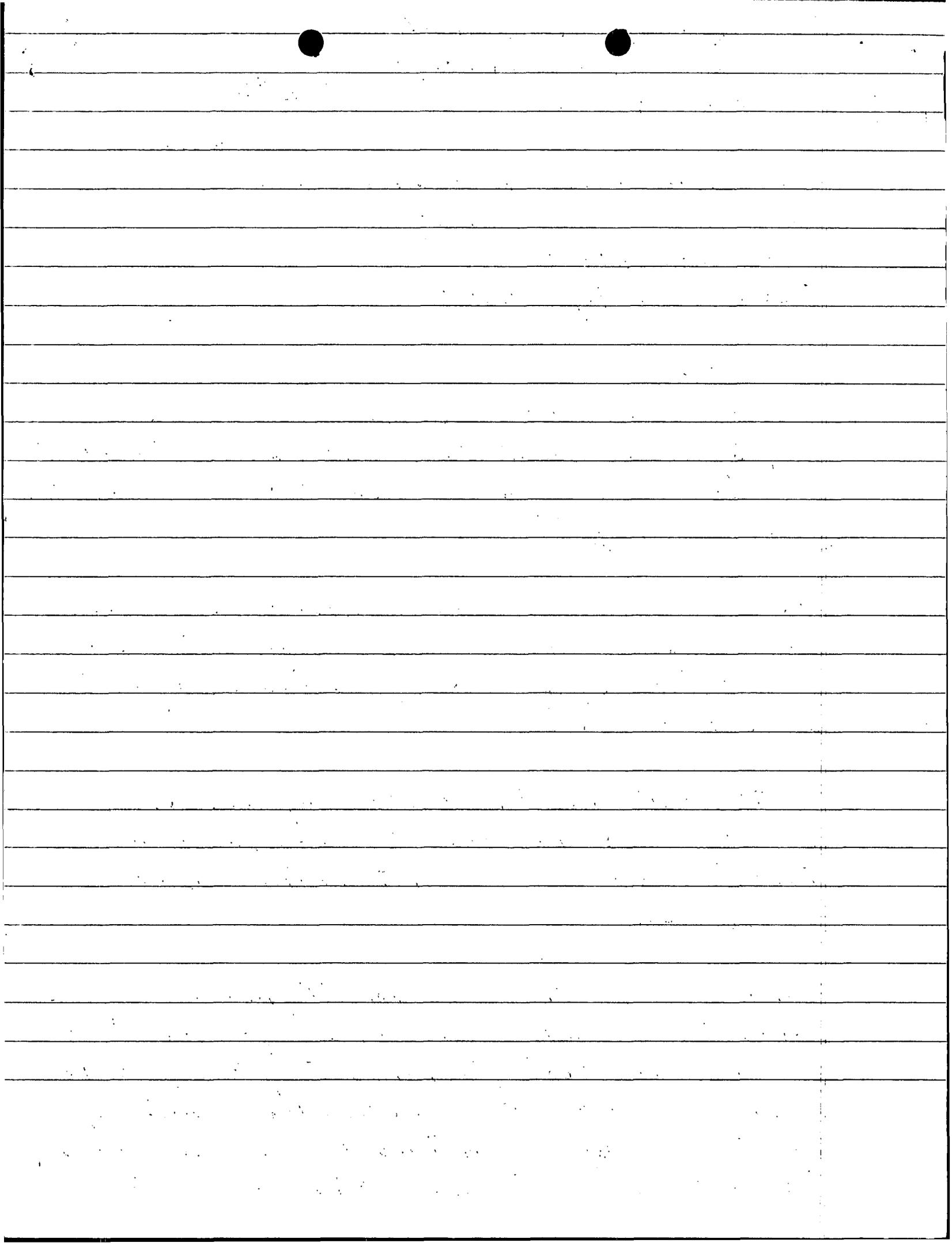
Mrs Hilton:

I wrote you a letter 6-1-99 concerning employees and a water line. NORTH MARSHALL RURAL WATER DISTRICT was laying along a County Rd. in MARSHALL Co. (NORWELL/GRIGGS TOWN RD.)

Now as water consumers we have more concerns about this Rd. Fines against the District and the Distribution operators by the Division of Water out of Frankfort.

In the following I'll explain my concerns as a water consumer and why I ask for a full investigation by P.S.C. in the interest of water consumers.

# 1 - our District didn't get a permit from the Division of Water to run the Norwell/Griggs Town Rd line. There were 600' of this line. They (the Dist.) had layed all but about 700' before the Division of Water was aware of this. To my understanding I talked to Mr Joe Deavers - Division of Water





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

April 28, 1999

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

Ms. Bessie Elliott  
3981 U.S. Hwy 68W  
Benton, KY. 42025

RE: Case No. 99-050

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT'S )  
PROPOSED RULES FOR WATER MAIN ) CASE NO. 99-050  
EXTENSIONS TO REAL ESTATE SUBDIVISIONS )

ORDER

IT IS ORDERED that North Marshall Water District ("North Marshall") shall file the original and 8 copies of the following information with the Commission within 20 days of this Order, with a copy to all parties of record. Each copy of the information requested shall be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet shall be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. The name of the witness who will be responsible for responding to questions relating to the information provided shall be included with each response. Careful attention should be given to copied material to ensure its legibility.

1. Provide a schedule that lists each refund for water main extension that North Marshall has made during the past 3 calendar years. This schedule shall also list the date and amount of each refund, the amount of feet of water main extension for which the refund is made, and whether the recipient of the refund was a subdivision developer.

2. a. (1) Describe the controls that North Marshall currently exerts on the costs of water main extensions to subdivision developers.

(2) Explain why these controls are inadequate.

b. (1) Describe the controls that North Marshall currently exerts on the costs of water main extensions to non-subdivision developers.

(2) Explain why these controls are adequate.

3. Explain why North Marshall chose to limit refunds to subdivision developers to \$3 per foot of main extension when the actual cost of such water main extensions ranges from \$3.44 to \$10.62 per foot.

4. List and describe all water main extension projects that are currently anticipated to occur within the next 3 years. This list shall include any water main extension projects that are currently under construction. The description of the project shall include whether the water main extension will provide service to a subdivision development.

5. Define the following terms as they are used in North Marshall's proposed revision to its Rules and Regulations:

a. Subdivision.

b. Developer.

6. State whether the limitation on refunds to subdivision developers will apply to those portions of water main extensions that are outside of the subdivision development. (For example, a subdivision developer constructs a 1,500-foot water main extension. Approximately 700 feet of this extension is over land that is not owned by the developer. This portion of the extension is necessary to connect the subdivision development to the existing main.)

7. The proposed revision will limit refunds on extensions made by subdivision developers, but not those of non-subdivision developers.

a. Describe the differences, if any, between a water main extension performed by a subdivision developer and a non-subdivision developer.

b. Explain why the differences listed in subpart 6(a) require a limitation on refunds to subdivision developers.

c. State whether the proposed revision will require subdivision developers and those purchasing real estate from those developers to finance a larger share of the costs of water main extensions than other similarly situated water district customers.

8. What affect, if any, does North Marshall expect that its proposed revision will have on the development of subdivisions within its boundaries? Explain.

9. a. Has North Marshall published notice of its proposed revision?

b. (1) If yes, provide a copy of this notice and state where publication occurred.

(2) If no, describe North Marshall's efforts to notify affected persons, including subdivision developers, of the proposed revision.

10. What comments, if any, has North Marshall received regarding the proposed revisions?

11. What governmental agencies, if any, oversee or perform planning and zoning activities within North Marshall's boundaries?

12. a. Have any local governmental agencies within North Marshall's boundaries established requirements or regulations regarding the construction and development of subdivisions?

b. If yes,

- (1) Identify the local governmental agencies.
- (2) Provide a copy of the requirements or regulations.

Done at Frankfort, Kentucky, this 28th day of April, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

April 15, 1999

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

Ms. Bessie Elliott  
3981 U.S. Hwy 68W  
Benton, KY. 42025

RE: Case No. 99-050

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT'S )  
PROPOSED RULES FOR WATER MAIN ) CASE NO.  
EXTENSIONS TO REAL ESTATE ) 99-050  
SUBDIVISIONS )

O R D E R

This matter arising upon the motion of Bessie Elliott, filed March 23, 1999, for full intervention, and it appearing to the Commission that Ms. Elliott has a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion of Bessie Elliott to intervene is granted.
2. Ms. Elliott shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Should Ms. Elliott file documents of any kind with the Commission in the course of these proceedings, she shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 15th day of April, 1999.

By the Commission

ATTEST:

  
Executive Director

Case # 99-050

Fax # 502-564-3460

North Marshall Rural Water  
Marshall Co. Dist.

4-12-99

193  
RECEIVED  
APR 13 1999

PUBLIC SERVICE  
COMMISSION

Ms. Helen C. Helton Executive Director  
Public Service Commission

730 Schenkle Lane  
P.O. Box 615  
Frankfort Ky 40602

Dear Ms Helton:

I faxed you a letter on 3-23-99 on case #99-050 asking for intervention. I haven't heard from the letter.

I talked to Mrs Susan Hutchinson's office. They said I could go ahead & send my letter to P.S.C. on the Refound Policy. I wanted to write my reasons I feel The Refound Policy should be completely discontinued. Both Developers and home owners.

Developers - 10 <sup>year</sup> period to draw Refounds. Some change owners to sale.

(I've written this before on Dev. Repeating for convenience)

The main reason to stop all Refounds to Developers is they are getting Pd. Twice. (as my self & some other consumers see this) for main line running through their Development



north Marshall Rural Water Dist  
Marshall Co.

4-12-99

### First Payment—

When The Developer Plans his Sub. Division or Estate Building. he figures all his expenses—Water—Elect. So on—Then Sets Price of his lots to make a Profit This he has to do.

### Second Payment—

Now when The Developer Sells a lot. The Water District Refunds him for 50' of Cost of line running through his Development. Till he received back all The Cost of line on Ten year Period. I ask is This lawful for our Water Dist. to Do This? We are a none profit org. Developers are for Profit. And This is a Clean Windfall to Them

Home owners—5 year Period to collect Refunds— They (Homes) are not for Profit Bus. <sup>But</sup> we feel These Refunds Should be Stopped also.

### The reason—

Some may (or most) be over 5 years old.

Could There be Some Confusion. if Gov Patton uses Some of The Fed. Grant money to run lines along County Rds. not many left. we understand here in Marshall Co. That don't have water along The Rd.

393

NORTH Marshall Rural Water Dist.  
Marshall Co.

4-12-99

my point - although Gov. Patton uses some of the Fed. Grant money to run lines along county Rds there will still be some low income who can't pay the \$500.00 Hook up & meter fee.

The \$150.00 Refound The District ask to be left on serves little or no benefit to amount to any thing. As I can see.

I hope you will discontinue completely.

Take The Developer Refounds & pay for some meters for low income. The Commisssors seem to look at how much water they can sell. I would like to look toward making life better for some. we payed \$4,000.00 Refound to one Developer a few months back that would pay for meters to 8 homes - sell water - make life better for 8 families.

We want economic Development. But in way all can afford water.

You might have to look at new Policies -

Thanks for letting me express my thoughts.

The decision is yours

May our Divine Creator Guide you

Sincerely

Ph. 502-527-1232

Miss Bessie Elliott  
3981 U.S. Hwy 68W  
Benton Ky 42025

191

NORTH MARSHALL RURAL WATER DIST.  
MARSHALL, CO. KY

3-22-99

MS Helen C. Helton, Executive Director  
Public Service Commission  
730 Schenkle Lane  
P.O. Box 615  
FRANKFORT KY 40602

RECEIVED

MAR 23 1999

PUBLIC SERVICE  
COMMISSION

Dear Ms Helton:

I'm asking <sup>for</sup> full intervention on  
Case # 99-050

Here is why -

# 1 - I've tried for past 2 years or more to get  
The Refounds to Sub. Divisions Developers  
discontinued by our water District.

# 2 - I would like to know P.S.C.'s <sup>(Final)</sup> Decision on this  
Case.

# 3 - would like to give my reasons. Why I would  
like to see Refounds to Sub. Divisions Developers  
discontinued completely.

Sincerely

Miss Bessie Elliott  
3981 U.S. Hwy 68 W  
Benton Ky 42025

Ph. 502-527-1232





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

February 9, 1999

B. W. Darnell  
Chairman  
North Marshall Water District  
56 Frankfort Road  
Benton, KY. 42025

RE: Case No. 99-050  
NORTH MARSHALL WATER DISTRICT  
(Deviation) SUBDIVISION DEVELOPMENT CHANGE

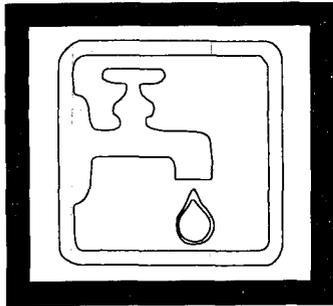
This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received February 8, 1999 and has been assigned Case No. 99-050. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,  
*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

SB/jc



# NORTH MARSHALL WATER DISTRICT

56 Frankfort Rd. • Benton, Kentucky 42025 • Telephone (502) 527-3208

## District Superintendent

Bobby Sirls

## Commissioners

B.W. Darnell, Chairman  
Gary E. Clark, Secretary  
Roy C. Brien, Treasurer  
Scott Solomon  
John R. Travis

February 5, 1999

Helen Helton, Executive Director  
Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, KY 40601

RECEIVED

FEB 8 1999

PUBLIC SERVICE  
COMMISSION

Dear Ms. Helton:

*Case 99-050*

The North Marshall Water District Commissioners has voted to make changes to the Rules and Regulations approved by the Public Service Commission on November 15, 1994. Attached are copies of the changes being submitted for your review and approval. A waiver of state regulations is requested, if necessary. The changes are as follows:

- \*\* Sheet 3 Item 18 is changed
- \*\* The Water Main Extension Contract for Subdivision Development is changed

The reason we want to change this contract and limit the refunds to subdivision developers is due to the fact that we see a wide variation in average cost per foot and the resulting variation in refunds. We have looked at refunds in 1998 and found that they range from \$172.00 per 50 foot to \$531.00 per 50 foot. There are reasons for cost variations such as the terrain to be dug (soft dirt versus hard rock), the size of pipe used (4" versus 6"), the number and kind of hydrants used (post versus 3 way) and engineering fees. The commissioners have come to the conclusion that even though there are bona fide cost variations in extension construction, we cannot exercise a great deal of control over the construction costs. In view of that fact, it would seem to be fairer for the developers, the district commissioners/employees and the general public if we refund 50 foot value up to a maximum of \$150.00 per tap-on.

Sincerely,

*B.W. Darnell*

B.W. Darnell  
Chairman

Attach.

CC: Commissioners  
County Attorney

**NORTH MARSHALL WATER DISTRICT**  
Name of Issuing Corporation

For Entire Area Served  
P.S.C. No. \_\_\_\_\_  
Sheet No. \_\_\_\_\_  
CANCELING P.S.C. No. All  
SHEET NO. 3

**MAIN EXTENSIONS**

- 17) All main extensions will be done according to the specifications of the District. All contractors will be furnished a copy of these specs before installing a main.
- 18) All main extensions in subdivisions will be paid for by the developer. The District will refund an amount equal to 50 feet per tap-on paid, determined by dividing the total cost by the total feet of the extension to arrive at a cost per foot, tap-on paid, determined by dividing the total cost by the total feet of the extension to arrive at a cost per foot, up to a **maximum of \$150.00**. All main extensions other than for subdivisions will be paid for by the applicants. The District will furnish 50 feet per tap paid. determined by dividing the total cost of the extension by the total feet of the extension to arrive at a cost per foot. Each applicant will also be required to pay a tap-on fee to establish service. All extensions must be under contract with the District.
- 19) Additional customers will be allowed to tap on to a new main extension per the terms of the contract for five years. The new customers must pay an equal part of the cost of the main extension.
- 20) The District will continue to refund 50 feet per tap-on paid for a period of **ten (10)** years.
- 21) Under no circumstances will any customers be allowed to get more money refunded than they originally paid for the extension. **The tap-on fee is not considered part of the extension.**

**SERVICE OUTSIDE BOUNDARIES**

- 22) The North Marshall Water District will serve any individual outside the District's service area in accordance with 807KAR 5:066, Section 11 of the Rules and Regulations of the Public Service Commission.

**BILLING**

- 23) Water bills will be issued bimonthly, with bills being mailed on or about the 20th of each even numbered month.

**DELINQUENT PENALTY**

- 24) Water bills will become delinquent after the 10th of the following month in which they are mailed. A 10% late penalty will then be added to the to the account. The penalty may be assessed only once on any bill for rendered service. The District cannot forgive a late penalty due to postal error (i.e. checks or bills getting lost in the mail). A bill will be considered paid by the District on the date postmarked or date accepted by a collection service (i.e. banks who accept water bill payments).

**TURNOFFS AND RECONNECTS**

- 25) Service will be discontinued after the 27th of the month in which the bills become delinquent. During normal business hours, a \$20.00 reconnect fee plus the amount of the delinquent bill must be paid before service is restored. After normal business hours, a \$35.00 reconnect fee must be paid plus the amount of the delinquent bill before service is restored. Discontinuance of service for failure to pay will be done in compliance with 807 KAR 5:006, Section 14.

**TRANSFER OF DELINQUENT BALANCE**

- 26) When a customer has service disconnected at one location and connected at another, any delinquent balance at the original location will be due before service will be established at the new location.

DATE OF ISSUE \_\_\_\_\_  
ISSUED BY \_\_\_\_\_

DATE EFFECTIVE \_\_\_\_\_  
TITLE \_\_\_\_\_

**NORTH MARSHALL WATER DISTRICT  
WATER MAIN EXTENSION CONTRACT  
FOR SUBDIVISION DEVELOPMENT**

This contract is entered into by and between the North Marshall Water District and \_\_\_\_\_  
(developer) for the purpose of extending a water main into a subdivision at the following location:

In the following covenants and agreements set forth, both parties do agree and bind themselves as follows:

The Developer is required to confirm that the District has the capacity required for \_\_\_\_\_ feet of a \_\_\_\_\_ inch water main and appurtenances prior to State Division of Water approval. All approved design prints and any documents pertaining to this extension shall be signed by the District's approved representative. In all cases the design shall at least equal to the standards established by good engineering practices for other water districts.

It is further agreed that the total cost of the water main extension shall be the responsibility of the developer and installed by a reputable contractor secured by the developer and approved by the District. at a total cost of \$ \_\_\_\_\_.

The District hereby agrees to refund the developer a sum equal to **50 feet of the extension price up to a maximum of \$150.00** for each new customer connected during the year and whose service line is directly connected to the extension installed by the developer, and not to extensions or laterals therefrom. Total amount refunded shall not exceed the amount paid for the original extension. The refund shall be calculated as follows:

The total cost of the original extension will be divided by the total footage to arrive at a cost per foot. The District will be obligated to pay 50 feet multiplied per foot for each new customer. These refunds will continue for a period of **ten (10) years**.

It is hereby agreed that the developer will guarantee the performance and maintenance of the water main for a period of one year after the acceptance date by the District. The developer shall furnish the District "as built plans" by the engineer and a copy of the plans approved by the State Division of Water.

The developer shall repair all leaks within 24 hours or the District will have the necessary repairs performed and bill the developer for the cost of repairs. If a major leak occurs, the District shall repair it immediately to conserve water and prevent property damage. The developer will be billed for such repairs.

This contract is binding upon the District by and through the District Commissioners of North Marshall Water District. This contract binds upon the developer, their heirs and assigns.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_.

**BOARD OF COMMISSIONERS  
NORTH MARSHALL WATER DISTRICT  
MARSHALL COUNTY, KENTUCKY**

**BY:** \_\_\_\_\_

**APPLICANT(S):**

**TITLE:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**STATE:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_

I \_\_\_\_\_ within and for the State and County aforesaid, do hereby certify that on this day and date, the foregoing instrument was produced before me by \_\_\_\_\_ and \_\_\_\_\_, and was acknowledged by each of them to be their act and deed.

My commission expires on \_\_\_\_\_.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my seal of office this the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

91974

Case # 99-050

11-1-99

Ms Helen Hilton  
Public Service Commission  
730 Schenkle Lane  
P.O. Box 615  
Frankfort Ky 40602

NOV - 15 1999

Dear Ms Hilton:

This concerns the answers to questions sent to  
North Marshall Rural Water District - Marshall, Co.  
Aug - 19 - 1999

IN (N.M.) response to the P.S.C. 10-6-99 by Mr Jeffrey  
Edwards - Marshall, Co. Attorney

I would like to comment on Mr Edwards's answer to  
Question # 7 -

Mr Edwards said - "This all boils down to current  
customers involuntarily subsidizing the efforts  
of a developer to make a profit on his investment"

I agree with Mr Edwards on the word INVOLUNTARILY  
(meaning to my understanding not <sup>in</sup> will of consumers)  
consumers have no say in Policy making by our  
Commissors. Not are they even ask to my  
Knowledge.

I've talked to many of the (N.M.) consumers  
over last five years. All and my self felt  
this Policy (Refounding) was a fleecing of the  
low income of our water District.  
Lealy unfair to all the consumers

Case # 99-050

11-1-99

not only is The Developer getting a clear windfall  
 But The unsound bussines way our District was handling  
 The refunds (no bids)

our District has asked \$150<sup>00</sup> per tap be left on  
 I'm asking that The Refunds be discontinued  
 completely -

The Following are my reasons why

- 1 - We (Consumers) are subsidizing Developers in other ways.
- 2 - Boring under County Rds or main Hwy for free when needed. \$3,000.00 to \$4,000.00
- 3 - Connecting to main line at Coast.  
 at Coast other Consumers (Homes) \$500<sup>00</sup> to hook on
- 4 - Paying The difference between 4" and 6" lines to Builders. (matter of records)
- 5 - Then There is The Flat Rate The P.S.C. let (n.m.w.) go to in our last rate increase. 1993-94

This took away The 2000 gal's of Free water with our mouthely mimium rate we are (billed by Mouthely) that put \$8.00 more on low income if They use 4,000 gal's in two mouthes. No matter how I figure it.

This was the last help our District - 11-1-99 gave to Consumers. (our Dist. had this Break since it was built late 60's from one of first customers 49 or more years) That helped low & Fixed income

in the past year our District has started helping customers with ~~low~~ water leak bills The only Break I know of for consumers -

now we feel with the Flat Rate. The low and Fixed income. Who can least afford it is subsidizing - Developers every 2-months by 8.0% and will till the loan is pd. off.

#### Explanation.

our District made a loan with KIA. in 1993-94 To Build large water Towers & lines to East Marshall part of our District. where a lot of Development was going on. So there would be a good supply of water for Sub-Divisions and Estate Builders.

To my knowledge at this point. Developers did not put up one red cent

I realize stopping the Refounds won't help the low income right now. But will be a start Hoping the P.D.C. and our Legislators will take a look and set Rules and Regulations

PH 4

Case # 99-050

11-1-99

That is Fair and just between low income  
(Home owners) and the for Profit Developers

Hopefully the help for low income will be  
restored in the future. (The 2000 gals) Free  
water per month. This helps young families more  
than fixed income.

Sincerely

Miss Bessie Elliott  
3981 U.S. Hwy 68W  
Benton Ky 42025

Ph. 270-527-1232

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
OCT 08 1999  
PUBLIC SERVICE  
COMMISSION

CASE NO. 99-050

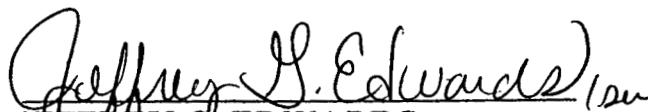
NOTICE OF FILING

Comes now the North Marshall Water District ("North Marshall"),  
pursuant to the Order dated August 19, 1999, hereby files its response.

  
JEFFREY G. EDWARDS  
MARSHALL COUNTY ATTORNEY  
P.O. BOX 472  
BENTON, KY 42025

CERTIFICATE OF SERVICE

I hereby certify that the original and eight (8) copies of the foregoing Notice was mailed by U.S. Mail on this the 6<sup>th</sup> day of October, 1999 to Ms. Helen Helton, Public Service Commission, 730 Schenkel Lane, P.O. Box 615 Frankfort, Ky 40602 and one (1) copy mailed to Ms. Bessie Elliott at 3981 U.S. Hwy 68 West, Benton, Ky 42025.

  
JEFFREY G. EDWARDS  
MARSHALL COUNTY ATTORNEY

1a. What are North Marshall's "minimum district specifications for water line installations"?

**Attached are written specifications outlining our minimum requirements for water line installations.**

164

1b(1). Is the requirement that a developer obtain more than one bid set forth in North Marshall's filed rate schedules?

**There is no requirement set forth in our filed rate schedules relative to number of bids required. When a developer begins to deal with us about an extension, pricing is normally discussed. We encourage the developer to obtain more than a single bid to help insure he/she gets a good price and that we do not have to sign an contract with the developer that contains a ridiculously high price.**

162

1b(2). If no, where is the requirement set forth?

**There is no requirement set forth in writing.**

1b(3). How long has North Marshall required a subdivision developer to obtain two or more bids on a proposed water line extension as a condition to the extension?

**We normally ask the developer to obtain more than one bid. We are not certain for how long this has been done.**

1c. Does North Marshall have a standard contract for subdivision water main extensions? If yes, provide the contract.

**North Marshall does have a standard subdivisions water main extension contract a copy of which is attached.**

1d(1). What policy, if any, does North Marshall have regarding the placement and number of fire hydrants on a proposed water main extension?

**Item 35 of our approved rate schedules states "The North Marshall Water District is not certified as a fire protection district. Therefore, it will not guarantee any flow or pressure at any hydrant, regardless of size. Flush valves are installed at the end of mains per Division of Water regulations. These are for District personnel use only."**

1d(2)

1d(2). If North Marshall has such a policy, is this policy set forth in North Marshall's filed rate schedules? If no, why not?

**Refer to answer to question 1d(1).**



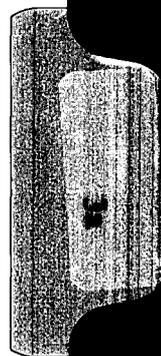
(CPI)

1d(3). If North Marshall does not have a policy regarding the placement and number of fire hydrants on a proposed water main extension, explain why not.

**Refer to response to question 1d(1).**

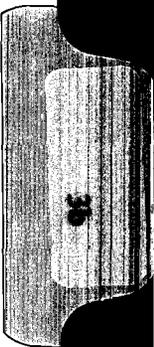
2. Why has North Marshall not proposed additional controls or requirements upon water main extensions if it believes that its existing controls are inadequate?

**The district heretofore has not proposed any deviation from the standard 50 foot refund requirement because we did not want to do anything to discourage economic development and growth of the district. Although we have minimum standards for construction of the main extensions, the developers have considerable freedom in construction, the selection of contractors and the amount of money expended. A good deal of growth has occurred over the last few years and we now feel the time has arrived when we need to be more restrictive in the amount of money the district contributes toward water main construction in subdivisions.**



3a. Are the controls that North Marshall exerts on the costs of water main extensions to non-subdivision developers also inadequate? Explain.

**On August 5, 1999, the PSC approved a new contract to be used for residential non-subdivision water main extensions. This new contract provides for more district control over costs and is expected to be adequate. A copy is attached.**



3b. If North Marshall considers its controls on the cost of water main extensions to non-subdivision developers to be inadequate, state why no changes are proposed for that type of extension.

**Refer to the previous answer to question 3a.**

4. What, if any, studies or analysis did North Marshall perform to determine that refunds to subdivision developers for water main extensions should be limited to \$3.00 per foot? Provide a copy of all studies and analyses performed.

**No studies nor analyses were performed.**

5. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 4. For each extension listed, state its length, expected cost, and number of expected connections.

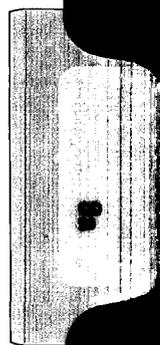
Extension Name	Length	Expected Cost	Expected Connections
Flannery's	2775 ft	\$26,000	17
Dr. Gordon	6020 ft	\$37,625	85
Phillip Green	2550 ft	\$12,550	153
Virginia Valley	800 ft	\$1983	5
Geo. Clark Road	9000 ft	\$16,500	22
Norvell Road	6000 ft	\$16939	10
Hwy 95	8000 ft	?	14
Jerico Lane	3400 ft	?	9
Lone Valley Road	1800 ft	\$8959	8
Dees Lane	1000 ft	?	7

6. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 5(a). Would the developer of an industrial park be considered a "subdivision developer" under North Marshall's proposed revision? If no, would such a developer be eligible for a greater refund of water extension main costs than a "subdivision developer"?

**The developer of an industrial park would, in our estimation, be considered the same as a subdivision developer in that both types are in business to turn a profit on a tract of land.**

7. Why should a subdivision developer's efforts to make a profit from the development serve as the basis for limiting his refund for water main extension costs?

**This all boils down to current customers involuntarily subsidizing the efforts of a developer to make a profit on his investment. We believe the current trend in thinking supports our proposal to reduce the amount of subsidizing given to subdivisions. The PSC is currently investigating new approaches such as system development charges for financing new water systems construction.**

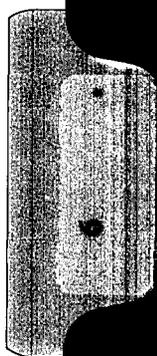


8a. What studies or analyses has North Marshall performed to reach its conclusion that “[t]hose purchasing lots [from a subdivision developer] will most likely be in better financial circumstances and better prepared to pay than non-subdivision customers”? Provide these studies or analyses.

**The district has not conducted any studies other than driving through the recently constructed subdivisions and observing the sizes of houses typically being built, and then driving through neighborhoods where the residents has recently financed water mains themselves. It seems reasonable to conclude that more than likely the people moving into the new subdivisions have better financial circumstances than those living in old, small frame houses and trailers along county and state roads.**

8b. What studies or analyses has North Marshall performed to reach its conclusion that “[n]on-subdivision customers living along county and state roads are often made up of low to middle income families”? Provide these studies or analyses.

**As stated in the previous answer, we have no formal studies or analyses to provide you. Our conclusions are based on our observations when looking at properties in these locations.**



9. Refer to North Marshall's Response to the Commission's Order of April 28, 1999, Item 8. What studies or analyses has North Marshall performed to reach its conclusion that the effect of its proposed revision would be small?

**Here again we have performed no formal studies or analyses but drew our conclusion from comparing the cost of a \$20,000 lot and \$150,000 house to a refund revision of say \$200.**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

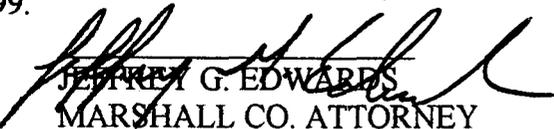
IN THE MATTER OF:

NORTH MARSHALL WATER )  
DISTRICT'S PROPOSED RULES ) CASE NO. 99-050  
FOR WATER MAIN EXTENSIONS )  
TO REAL ESTATE SUBDIVISIONS )

COMPLIANCE WITH ORDER DATED APRIL 28, 1999

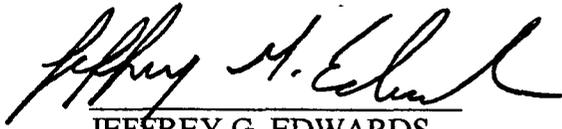
Comes now, the North Marshall Water District ("North Marshall") and respectfully files its response in compliance with the Order dated April 28, 1999.

Dated this the 17<sup>th</sup> day of May, 1999.

  
JEFFREY G. EDWARDS  
MARSHALL CO. ATTORNEY  
P.O. BOX 472  
BENTON, KY 42025

CERTIFICATE OF SERVICE

This is to certify that the foregoing Compliance with Order of April 28, 1999, was served by Federal Express Mail the original and eight(8) true and correct copies of same to Helen C. Helton, Executive Director, Public Service Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Ky 40601; and by mailing a true and correct copy by first class to Bessie Elliott, 3981 U.S. Highway 68 West, Benton, Kentucky 42025, on this the 17<sup>th</sup> day of May, 1999.

  
JEFFREY G. EDWARDS  
MARSHALL CO. ATTORNEY

1. Provide a schedule that lists each refund for water main extension that North Marshall has made during the past 3 calendar years. This schedule shall also list the date and amount of each refund, the amount of feet of water main extension for which the refund is made, and whether the recipient of the refund was a subdivision developer.

\* **Attached are the requested schedules for the past 3 calendar years.**



### 1997 REFUNDS

refund date	amount refunded	#of feet	
01/14/97	200.00 (2 taps)	8250	developer
01/14/97	250.00	500	developer
01/14/97	221.86	1786	developer
01/15/97	177.50	760	
01/14/97	156.00 (2 taps)	1260	
01/14/97	200.00 (2 taps)	1600	
01/14/97	172.00	1400	developer
01/13/97	631.00 (3 taps)	300	developer
01/13/97	307.00	285	
01/13/97	307.00	285	
01/13/97	167.00	500	
01/14/97	1,098.00 (3 taps)	4280	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
01/13/97	15.04	5000	
06/04/97	100.00	1500	developer
06/04/97	1,746.00 (9 taps)	2000	developer
06/04/97	1,098.00 (4 taps)	4280	developer
07/21/97	823.50 (2 taps)	4280	developer
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
07/01/97	157.50	6000	
09/19/97	630.00 (3 taps)	760	
11/13/97	2,450.00 (8 taps)	400	developer
11/17/97	388.00 (2 taps)	2000	developer
11/06/97	1,515.00	450	
11/17/97	1,000.00 (5 taps)	1040	developer
11/17/97	172.00	1400	developer
11/17/97	549.00 (2 taps)	549.00	developer
12/04/97	2,124.00 (4 taps)	2,008.00	developer
12/05/97	582.00 (2 taps)	582.00	developer



2a (1) Describe the controls that North Marshall currently exerts on the costs of water main extensions to subdivision developers:

\* **Subdivision developers must construct meeting at least the minimum district specifications for water line installations.**

\* **Developers are asked to obtained more than one bid.**

\* **The district must agree to the price and sign a contract with the developer.**

2a(2) Explain why these controls are inadequate.

\* **Developers can design extensions that are more than the minimum requirements, e.g. 6" mains versus 4" mains. They have some discretion on the number of hydrants placed.**

\* **Construction costs can be influenced by the time of year and how busy contractors are when bids are taken. Soil conditions (rocky or loose) can have a bearing on the bid price.**

2b(1) Describe the controls that North Marshall currently exerts on the costs of water main extensions to non-subdivision developers.

\* **The same as for subdivision developers.**

2b(2) Explain why these controls are adequate.

\* **The controls are basically the same.**

3. Explain why North Marshall chose to limit refunds to subdivision developers to \$3 per foot of main extension when the actual cost of such water main extensions ranges from \$3.44 to \$10.62 per foot.

**\* The fact that there is a wide range in prices is the main reason we chose to limit the refund. We considered trying to eliminate the refund to subdivision developers but did not think there was any chance of this being approved.**

4. List and describe all water main extension projects that are currently anticipated to occur within the next 3 years. This list shall include any water main extension projects that are currently under construction. The description of the project shall include whether the water main extension will provide service to a subdivision development.

<b>Flannery's</b>	<b>subdivision</b>
<b>Dr. Gordon</b>	<b>subdivision</b>
<b>Phillip Green</b>	<b>subdivision</b>
<b>Virginia Valley</b>	<b>subdivision</b>
<b>Geo. Clark Road</b>	<b>non-subdivision</b>
<b>Norvell Road</b>	<b>non-subdivision</b>
<b>Hwy 95</b>	<b>non-subdivision</b>
<b>Jerico Lane</b>	<b>non-subdivision</b>
<b>Lone Valley Road</b>	<b>non-subdivision</b>
<b>Dees Lane</b>	<b>non-subdivision</b>

5a. Define the following terms as they are used in North Marshall's proposed revision to its Rules and Regulations.

\* **A subdivision is a tract of land which is divided into smaller tracts each of which is suitable for the construction of a family residence.**

5b. Define the following terms as they are used in North Marshall's proposed revision to its Rules and Regulations.

**\* A developer is a person or persons who own a tract of land and divides that tract into smaller tracts, installs streets and utilities and then sells these smaller tracts (lots) to prospective home builders.**

6. State whether the limitation on refunds to subdivision developers will apply to those portions of water main extensions that are outside of the subdivision development. (For example, a subdivision developer constructs a 1,500 foot water main extension. Approximately 700 feet of this extension is over land that is not owned by the developer. This portion of the extension is necessary to connect the subdivision development to the existing main.

**\* We would assume any portion of line required to be installed by the subdivision developer is to be a part of the subdivision contract, even if a portion of the line is outside the subdivision and along a county or state road.**

7. The proposed revision will limit refunds on extensions made by subdivision developers, but not those of non-subdivision developers.

a. Describe the differences, if any, between a water main extension performed by a subdivision developer and a non-subdivision developer.

\* **There will be not differences.**

7b. Explain why the differences listed in 6(a) require a limitation on refunds to subdivision developers.

**\* The reason we chose to not limit refunds to non-subdivision developers is the fact that they are not generally constructing an extension for the purpose of increasing their land value and making a profit the sale of lots.**

7c. State whether the proposed revision will require subdivision developers and those purchasing real estate from those developers to finance a larger share of the costs of water main extensions than other similarly situated water district customers.

**\* It is expected the costs of subdivision development will increase if we reduce the amount of refunds. It is also likely the developer will pass those additional costs on to those who purchase lots in the subdivision. This could mean those who purchase the lots will pay more for water than those customers situated outside subdivisions. Those purchasing lots will most likely be in better financial circumstances and better prepared to pay than non-subdivision customers. Non-subdivision customers living along county and state roads are often made up of low to middle income families.**

8. What affect, if any, does North Marshall expect that its proposed revision will have on the development of subdivisions within its boundaries? Explain.

**\* There might be some small affect on development, however, the amount passed on to the buyers would most likely be insignificant when compared to the total cost of the lot and the cost of construction a new house.**

9a. Has North Marshall published notice of its proposed revision?

\* **No.**

9b. (1) If yes, provide a copy of this notice and state where publication occurred.

\* N/A

9b (2) If no, describe North Marshall's efforts to notify affected persons, including subdivision developers, of the proposed revision.

\* **No effort has been made to notify affected persons, including subdivision developers.**

10. What comments, if any, has North Marshall received regarding the proposed revisions?

\* **Miss Bessie Elliott has commented that she intended to intervene in this case.**

11. What government agencies, if any, oversee or perform planning and zoning activities within North Marshall's boundaries?

\* **To the best of our knowledge, no government agency has planning and zoning activities within the district boundaries.**

12a. Have any local government agencies within North Marshall's boundaries established requirements or regulations regarding the construction and development of subdivision?

**\* Yes, we believe the City of Benton has review requirements on subdivisions constructed within a 3 mile radius of the Marshall County Courthouse. This would include a small part of the district.**

12b(1) Identify the local governmental agencies.

\* **To the best of our knowledge, Benton, Kentucky is the only agency.**

12b(2). Provide a copy of the requirements or regulations.

\* **A copy of the City of Benton's regulations are attached.**

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## ARTICLE 1

### PURPOSE, AUTHORITY AND JURISDICTION, DEFINITIONS

#### Section 101 Purpose:

Once land has been divided into streets, blocks, lots and open spaces, a pattern has been developed which may determine how well the community needs for residence, business and industry are to be met. It will also determine how the city can handle its traffic problems, its need for home sites, and how economically it can provide the many services demanded of it. The guidance of this development in harmony with community objectives is therefore a matter of serious public concern.

The Major Street Plan, of which adopted copies are filed in the office of the City Clerk, and the following regulations are designed to provide for:

- 101.01 The proper arrangement of streets.
- 101.02 Adequate and convenient open spaces for traffic.
- 101.03 Utilities.
- 101.04 Access of fire fighting apparatus.
- 101.05 Recreation.
- 101.06 Light and air.
- 101.07 The avoidance of congestion of population, including minimum width and area of lots.
- 101.08 Adequate provision of water, drainage, freedom from flood, sewer and other sanitary facilities.

#### Section 102 Authority and Jurisdiction

The Subdivision Regulations are adopted under the authority granted by the Kentucky Revised Statutes. The Planning Commission, established

under the Kentucky Revised Statutes, having fulfilled the requirements set forth in these acts as a prerequisite to the adoption of such regulations.

The regulations govern all subdivision of land within the corporate limits of the City as now or hereafter established, and within the unincorporated area in a 3 mile radius of the Marshall County Courthouse.

For the purpose of the regulations, which shall be known and may be cited as "Subdivision Regulations of Benton, Kentucky," certain words used herein may be defined as follows:

102.01 The term "subdivision" means the division of a tract of land into two (2) or more divisions for the purpose, development, and includes resubdivision; provided that a division of land for agricultural purposes into lots or parcels of five (5) acres or more and not involving a new street shall not be deemed a subdivision. The term when appropriate to the context shall relate to the process of subdividing or to the land subdivided.

102.02 The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, land place, or otherwise designated.

- a. Arterial Streets and highways are those which will be used primarily for high vehicular speeds or heavy volumes of traffic.
- b. Collector Streets are those which will carry intermediate volumes of traffic from minor streets to arterial streets.
- c. Minor Streets are those which are used primarily for access to the abutting properties and which will carry limited volumes of traffic.
- d. Marginal Access Streets are minor streets which are parallel to and adjacent to arterial streets and highways, and which reduce the number of access points to the arterial street for the purpose of increased traffic safety.
- e. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

ARTICLE II

ADVISORY MEETING WITH PLANNING COMMISSION

Previous to the filing of an application for conditional approval of the Preliminary Plat, the subdivider should meet with the Planning Commission for the purpose of ascertaining the location of proposed major streets, parks, playgrounds, school sites, and other planned projects which may affect the property being considered for subdivision.

The subdivider should review with the Planning Commission the minimum standards of design for the subdivision. Such informal review should prevent unnecessary and costly revisions.

This step does not require formal application or filing of a plat with the Planning Commission.

ARTICLE III

GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS

Section 301 Suitability of the Land:

Land which the Planning Commission has found to be unsuitable for subdivisions due to flooding, bad drainage, steep slopes, rock formation, or other features likely to be harmful to the safety, health, and general welfare of the future residents shall not be subdivided unless adequate methods approved by the Planning Commission or Building Inspector are formulated by the developer for meeting the problems created by the subdivision of such land.

Land within the Floodway shall not be platted for residential occupancy or building sites. Fill may not be used to raise land within the Floodway except where express permission has been granted by the Planning Commission. In other areas subject to flood, fill may be used providing the proposed fill does not restrict the flow of water and unduly increase flood heights.

For the purpose of these regulations, the limits of the Floodway shall be determined as follows:

- (a) Along East Fork Clarks River and Johns River-Watch Creek, the Floodway limits as shown on the map, "Proposed Floodway, East Fork Clarks River and Johns River-Watch Creek, Vicinity of Benton, Kentucky," prepared in July 1967 by the Benton Municipal Planning Commission and the Kentucky Division of Planning. Said map is made a part of these regulations.

- (b) Along other main streams and drainage channels, land lying within fifteen (15) feet of the top of the bank.

For the purpose of these regulations, land subject to flood shall be defined as follows:

Along East Fork Clarks River, land lying below the level of the Regional Flood (Regulated). The elevation of the Regional Flood (Regulated) shall be determined from the chart, "Natural and Regulated High Water Profiles, East Fork Clarks River, Vicinity of Benton, Kentucky" (Tennessee Valley Authority, April 1963). Said chart is made part of these regulations.

Along Johns River Watch Creek, land lying below the level of the Regional Flood. The elevation of the Regional Flood shall be determined from the chart, "High Water Profiles, Johns River-Watch Creek, Vicinity of Benton, Kentucky" (Tennessee Valley Authority, April 1963). Said chart is made a part of these regulations.

Section 302 Streets:

302.01 Conformity to the Major Street Plan:

The location of all streets in a proposed subdivision shall conform in general alignment to the Major Street Plan.

302.02 Street Extensions:

- a. The proposed street layout shall provide for the continuation or projection of existing streets in the surrounding area unless the Planning Commission deems such extension undesirable for specific reasons of topography or design.

- b. Where it is desirable in the opinion of the Planning Commission to provide street access to adjoining property, proposed streets should be extended by dedication to the boundary of such property.

302.03 Dedication of Right-of-Way - New Streets:

The dedication of right-of-way, measured from lot line to lot line, for new streets should be as shown on the Major Street Plan.

<u>Street Type</u>	<u>Minimum Dedicated Right-of-Way Width</u>
Arterial	80 feet
Collector	60 feet
Minor	50 feet
Marginal Access	50 feet
Alley	20 feet

302.04 Dedication of Right-of-Way - Existing Streets:

Subdivisions platted along existing streets should dedicate additional right-of-way if necessary to meet the minimum requirements as specified in the regulations.

- a. The entire minimum right-of-way should be dedicated where the subdivision is on both sides of the street.
- b. When the subdivision is located on only one side of an existing street, one-half of the required right-of-way measured from the center line of the existing roadway should be dedicated.

302.05 Intersections:

- a. Streets should intersect as nearly as possible at right angles.
- b. Street curb intersections should be rounded by radii of at least twenty (20) feet. When the smallest angle of intersection is less than sixty (60) degrees, the above minimum radii should be increased.

302.06 Curves in Streets - Horizontal and Vertical:

- a. A tangent of at least one hundred (100) feet long should be introduced between reverse curves on arterial and collector streets.
- b. Where a deflection angle is more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure adequate sight distance should be made. The minimum radius of curves should be:

<u>Street Type</u>	<u>Minimum Curve Radius</u>
Arterial & Collector	300 feet
Minor	100 feet

- c. All changes in grade for arterial and collector streets should be connected by a vertical curve of a minimum length equal to twenty (20) times the algebraic difference in the rates of grade, the length of curves for all other streets should be ten (10) times the algebraic difference in the rates of grade.

302.07 Street Grades and Elevations:

- a. Street grades should not exceed the following:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	3%
Collector	5%
Minor	7%

- b. For adequate drainage, the minimum street grade should not be less than one-half of one percent.
- c. No street in an area subject to flooding shall be approved if its surface is more than two (2) feet below the elevation of flood as defined in the preceding section. The Planning Commission may require where necessary profiles and elevations of streets for areas subject to flood. Fill may be used for streets provided such fill does not unduly increase flood heights. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood heights.

307.08 Marginal Access Streets:

Where a subdivision adjoins or contains an existing or proposed arterial highway on which traffic volumes

and vehicular speeds warrant special safety considerations, the Planning Commission may require marginal access streets.

302.09 Street Jogs:

Street jogs with centerline offsets of less than one hundred and twenty-five (125) feet should not be made.

302.10 Dead-end Streets:

Dead-end streets, designed to be so permanently, should not be longer than five hundred (500) feet and should be provided at the closed end with a turn-around having a radius at the outside of the pavement of at least forty (40) feet, and a radius at the outside of the right-of-way of at least fifty (50) feet.

302.11 Street Names:

When streets are not in alignment no names should be used which will duplicate or be confused with the names of existing streets. Proposed streets in alignment with existing streets should bear the names of these streets.

302.12 Private Streets and Reserve Strips:

- a. There should be no private streets platted within a subdivision.
- b. There should be no reserve strips except where their control is definitely placed in the city or county or under conditions approved by the Planning Commission.

Section 303 Blocks:

303.01 Length:

Block lengths should not exceed twelve hundred (1,200) feet, or be less than four hundred (400) feet.

303.02 Width:

Blocks should have sufficient width to provide for two tiers of lots of appropriate depth.

Section 304 Lots:

304.01 Relation to Streets:

All lots should front upon a public street or road.

304.02 Arrangement:

Side lot lines should be substantially at right angles to straight street lines or radial to curved street lines.

304.03 Dimensions:

- a. Lot dimensions should conform to the requirements of the zoning ordinance, except residential lots not served by public sewer should be at least 75 feet wide and 12,000 square feet in area.
- b. Where no zoning ordinance is in effect, residential lots served by public sewer should be at least 70 feet wide and 7,500 square feet in area. Residential lots not served by public sewer should be at least 75 feet wide and 12,000 square feet in area.
- c. A greater area than specified above may be required for residential lots if, in the opinion of the City (or County) Health Officer, there are factors of drainage, soil condition or other conditions to cause potential health problems.

304.04 Building Setback Line:

The minimum building setback line from the right-of-way should be at least one-half of the total width of the street right-of-way on which the building fronts but in no case less than 25 feet.

304.05 Corner Lots:

Corner lots for residential use should have sufficient extra width to meet the minimum building setback line

established on each street.

304.06 Flood Hazard:

Each lot in a subdivision shall contain a flood-free building site outside the limits of any easement or building setback line that may be required by these regulations or other applicable laws and regulations.

Section 305 Off-Street Loading and Parking Facilities:

In commercial and industrial subdivisions, space for adequate off-street loading to meet the needs of the proposed use shall be reserved and shall not be used for building purposes; space for off-street parking shall meet the following minimum requirements. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.

Industrial Plat - One space for each five persons employed or intended to be employed on such lot.

Commercial or Business Building - Four spaces for the first 1,000 feet of ground floor space and one additional space for each additional 150 square feet of such floor space.

Section 306 Easements:

306.01 Easements across lots or centered on rear or side lot lines should be provided where necessary for utilities and should be at least twelve (12) feet wide. Above ground utilities should be located within such easements where possible.

306.02 A storm water easement or drainage right-of-way may be required by the Planning Commission where necessary for

proper drainage within or through a subdivision.

Section 307 Public Sites and Open Spaces:

Where a proposed park, playground, school or other public use shown in the Master Plan is located in whole or in part in a subdivision, the Planning Commission may require the reservation of such area as may be deemed reasonable.

ARTICLE IV

PRELIMINARY PLAT APPROVAL

After meeting informally with the Planning Commission, the subdivider should cause to be prepared a Preliminary Plat prior to the making of any street improvements or installation of any utilities.

Section 401 Preliminary Plat Data:

The Preliminary Plat should meet the standards of design as set forth in the regulations and should give the following information insofar as possible.

- 401.01 Scale of two hundred (200) feet to one (1) inch or larger.
- 401.02 Name of subdivision, names and addresses of the owner, the engineer or surveyor, and owners of adjacent property.
- 401.03 Date, approximate north point, and graphic scale.
- 401.04 Acreage of land to be subdivided.
- 401.05 Contours at an interval of not greater than five (5) feet of elevation or a lesser interval if deemed necessary by the Planning Commission.
- 401.06 Boundary lines of area to be subdivided and their bearings and distances.
- 401.07 Existing and proposed easements and their location, width, and distances.
- 401.08 If any portion of the land being subdivided is subject to flooding, as defined by these regulations, the limits of such flooding shall be shown.

- 401.09 Streets on and adjacent to the tract and their names, widths, approximate grades, and other dimensions as may be required.
- 401.10 Utilities on and adjacent to the tract showing proposed connections to existing utility systems.
- 401.11 Lot lines and lot numbers.
- 401.12 Sites, and their acreages, if any, to be reserved or dedicated for parks, playgrounds, or other public uses. Sites, if any, for semi-public, commercial or multi-family use.
- 401.13 Minimum building setback lines.
- 401.14 Copies of the proposed deed restrictions, if any, should be attached to the Preliminary Plat.

Section 402 Procedure:

- 402.01 Five copies of the Preliminary Plat and supplementary material specified should be submitted to a designated representative of the Planning Commission with a written application for conditional approval at least fifteen (15) days prior to the hearing at which it is to be considered.
- 402.02 The Secretary of the Planning Commission should notify the subdivider by mail of the time and place of the hearing not less than ten (10) days before the date fixed for the hearing. Similar notice should be mailed to the owners of land immediately adjoining the area proposed to be platted as shown on the proposed subdivision.

402.03 Copies of the Preliminary Plat shall be forwarded by the Secretary of the Planning Commission prior to the hearing to the following persons:

a. County Health Officer

402.04 Within thirty (30) days after the hearing on the Preliminary Plat, the Planning Commission should approve, disapprove, or approve subject to modification the said Plat. Failure of the Planning Commission to act on this Preliminary Plat within thirty (30) days shall be deemed approval of the Plat. If this Plat is disapproved, reasons for such disapproval should be stated in writing. If approved subject to modifications, the nature of the required modifications shall be indicated.

402.05 The action of the Planning Commission should be noted on two (2) copies of the Preliminary Plat with any notations made at the time of approval or disapproval of the specific changes required. One copy should be returned to the subdivider and the other retained by the Planning Commission.

402.06 Approval of the Preliminary Plat shall not constitute acceptance of the Final Plat.

402.07 The approval of the Preliminary Plat shall lapse unless a Final Plat based thereon is submitted within one (1) year from the date of such approval. An extension of time may be applied for and granted by the Planning Commission.

ARTICLE V

REQUIRED IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL

Section 501 Monuments:

501.01 Two (2) concrete monuments at least twenty-four (24) inches in length and four (4) inches square with a suitable center point should be set at each street intersection on the street right-of-way line. Such monuments should be described in relation to the located section corners of the coordinate system of the State of Kentucky.

501.02 Iron pin monuments three-fourths (3/4) inches in diameter and twenty-four (24) inches long should be placed at all points on boundary lines where there is a change of direction and at all lot corners.

Section 502 Streets:

502.01 Minimum Base Widths:

Widths should be measured from the center line of the street. One-half of the following minimum base widths shall be provided on each side of such center line:

Arterial Streets	44 feet
Collector Streets	36 feet
Minor Streets	28 feet
Marginal Access Streets	28 feet
Alleys	20 feet

The subdivider shall hard surface or pave, and such pavement widths shall comply with the base widths as specified above.

502.02 Curbs and Gutters:

The Planning Commission may waive the requirements of

curbs and gutters, if they are not deemed necessary for the proper drainage of storm water.

502.03 Sidewalks:

Sidewalks should have a minimum width of four (4) feet and should be required on both sides of streets in all subdivisions. The Planning Commission may waive the requirements of sidewalks where public safety is not a factor.

Section 503 Utilities:

503.01 Water Supply System:

Where public water supply, in the opinion of the Planning Commission, is reasonably accessible, the subdivider should construct a complete water distribution system, including a connection for each lot and appropriate spaced fire hydrants, or with an alternate supply approved by the City (or County) Health Officer where public water supply is not within a reasonable distance.

503.02 Sanitary Sewers:

Where the public sanitary sewer system, in the opinion of the Planning Commission, is reasonably accessible, sanitary sewers should be installed to adequately serve all lots with connections to the public system. Where lots cannot be served by the extension of an existing public sanitary sewer, the subdivider shall obtain approval of lot sizes from the City (or County) Health Officer for individual septic tanks and disposal fields, or approval of a neighborhood disposal system.

503.03 Storm Drainage:

Adequate provision for storm water drainage should be provided in accordance with standards specified by the designee of the Planning Commission.

Section 504 Street Name Signs:

The Planning Commission shall require the installation of street signs at all intersections.

Section 505 Completion of Improvements Prior to Sale of Lots:

505.01 Prior to transfer of title to any lot recorded on the final plat, the subdivider must have fulfilled the requirements listed herein on the subdivision improvements as directly affecting the block in which such lot is located except that in lieu of such prior construction the Planning Commission may accept a security bond or certified check to the City sufficient to cover the estimated cost of the required improvements in such block. The bond or check will be subject to the condition that the improvements will be completed within 90 days of the date of deed unless prevented by circumstances beyond the control of the subdivider. The Planning Commission may grant an extension of time to avoid undue hardship upon the subdivider so long as such relief does not cause material detriment to the purchaser or the public good.

505.02 This provision is not intended to prohibit the sale of an incompletely improved subdivided area to another subdivider or developer, but in such cases the requirements pertaining

to improvements will in turn apply to such purchaser.

505.03 In the absence of a certificate from the Planning Commission filed with the County Court Clerk to the effect that all requirements as to improvements have been met, or bond or certified check posted with the City in lieu of prior construction as pertaining to a subdivided area, an affidavit signed by the subdivider or developer stating that the provisions of paragraph one under this heading have been fulfilled must accompany the deed to be lodged for record in the County Court Clerk's Office.

ARTICLE I

FINAL PLAT APPROVAL

The Final Plat shall conform substantially to the Preliminary Plat as approved, and it may constitute only a portion of the Preliminary Plat which the subdivider proposes to record and develop. The following is a list of specific items which are required on the Final Plat.

Section 601 Final Plat Data:

- 601.01 The plat should be at a scale of one hundred (100) feet to one (1) inch or larger.
- 601.02 Date, title, name and location of subdivision, graphic scale, and true north line.
- 601.03 All dimensions, angles, bearings and similar data on the plat should be tied to primary control points as approved by the Planning Commission. Location and description of said control points should be given.
- 601.04 Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites with accurate dimensions to the nearest one-hundredth of a foot; bearing or deflection angles, radii, arcs, and central angles of all curves with dimensions to the nearest minute.
- 601.05 If any portion of the land being subdivided is subject to flooding, as defined by these regulations, the limits of such flooding shall be shown.

- 601.06 Name of right-of-way width of each street, easement or other right-of-way.
- 601.07 Lot numbers.
- 601.08 Purpose for which sites, other than residential lots are dedicated or reserved.
- 601.09 Minimum building setback lines.
- 601.10 Location and description of monuments.
- 601.11 Names and locations of adjoining subdivisions and streets, and the location and names of owners of adjoining unplatted property.
- 601.12 Certification on plat of title showing that applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use (Form 1).\*
- 601.13 Certificate by the City (or County) Health Officer when individual sewage disposal or water systems are to be installed (Form 3 attached to plat).
- 601.14 Cross-sections and profiles of streets showing grades, and drawn to city standard scales and elevations shall be attached to the Final Plat.
- 601.15 Protective covenants should either be placed directly on the Final Plat or attached thereto in form for recording.
- 601.16 Certification on plat by the Chairman of the Planning Commission that the plat has been approved for recording in the office of the County Clerk (Form 4).

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\*See appendix for suggested forms.

Section 602 Procedure:

- 602.01 The original tracing and a specified number of copies together with any street profiles or other plans that may be required shall be submitted to a specified representative of the Planning Commission by the subdivider at least fifteen (15) days prior to the meeting at which it is to be reviewed.
- 602.02 One copy of the Final Plat shall be transmitted to the Planning Commission designee who should check said plat as to computations, certification, monuments, etc. If found satisfactory, he will return the copy of the Final Plat to the Planning Commission with his approval certified thereon.
- 602.03 One copy shall be transmitted to the County Health Officer when individual sewage disposal or water supply systems are to be installed. If the plat meets the approval of the Health Officer, he should return the copy with his approval certified thereon.
- 602.04 Within thirty (30) days after the review of the Final Plat, the Planning Commission shall approve or disapprove the said plat. Failure of the Planning Commission to act on this Final Plat within thirty (30) days shall be deemed approval of the plat. If the plat is disapproved, the grounds for disapproval shall be stated in the records of the Planning Commission. A copy of the reasons for disapproval shall be sent to the subdivider.

602.05 Approval of the Planning Commission shall not constitute the acceptance by the public of the dedication of any streets or other public way or ground.

602.06 When the Final Plat has been approved by the Planning Commission, one (1) copy shall be returned to the subdivider, with the approval of the Planning Commission certified thereon, for filing with the County Clerk as an official plat of record; the original tracing with the certification of the Planning Commission shall also be returned to the subdivider; another copy certified by the Planning Commission shall be transmitted to the city or county legislative body for their consideration of action on any proposed dedication.

ARTICLE VII

VARIANCES

Section 701 Exceptional Conditions:

The Planning Commission may grant a variance to the regulations where by reason of the exceptional shape of a specific piece of property, or where by reason of exceptional topographic conditions, the strict application of these regulations would result in extreme practical difficulties and undue hardship upon the owner of such property; provided, however, that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of these regulations. In granting such variances or modifications, the Planning Commission may require such conditions as will substantially secure the objectives of the standards or requirements so varied or modified. Financial disadvantage to the property owner is no proof of hardship within the purpose of the regulations.

Section 702 Group Housing Developments:

A comprehensive group housing development, including the large scale construction of housing units together with necessary drives and ways of access may be approved by the Planning Commission although the design of the project does not include standard street, lot and subdivision arrangements; provided that departure from the standards of the regulations can be made without destroying their intent.

Section 703 Procedural Variance:

Where a proposed subdivision would contain five or less parcels

or plots of land and no new streets, the procedure of preparing a preliminary plat may be waived.

ARTICLE VIII

ENFORCEMENT AND PENALTIES FOR VIOLATIONS

The Kentucky Revised Statutes provide a detailed description of the procedure for enforcement of subdivision regulations, and the specific penalties for violation of such regulations.

Section 801 Enforcement:

801.01 No plat or plan of a subdivision of land located within the jurisdiction of the Planning Commission should be submitted to the records of the County or received or recorded by the County Clerk until said plat has received final approval in writing by the Planning Commission as provided in the Kentucky Revised Statutes.

801.02 No board, public officer, or authority should accept, lay out, improve, or authorize utilities to be laid in any street within the territory for which the Planning Commission has adopted a Major Street Plan unless the street has received a legal status of a public street prior to the adoption of the Major Street Plan; or unless a street corresponds with a street shown on the Major Street Plan; or unless a street on a subdivision plat or a street plat has been approved by the Planning Commission as provided in the Kentucky Revised Statutes.

801.03 After adoption of the Major Street Plan by the Planning Commission, no building should be erected or building permit issued within such territory unless the requirements

as provided in the Kentucky Revised Statutes, have been fulfilled. If any building is erected in violation of these regulations, the building inspector or other appropriate official may cause the building to be vacated or removed as provided in the Kentucky Revised Statutes.

Section 802 Penalties:

802.01 Any County Clerk who receives, files or records a plat in violation of the provisions of the regulations may be fined not less than one hundred (100) dollars or more than five hundred (500) dollars as provided in the Kentucky Revised Statutes.

802.02 Any person who transfers or negotiates to transfer any land before the plat has been approved by the Planning Commission and recorded in the County Clerk's Office, or attempts the description of land by metes and bounds in violation of the regulations, may be required to pay to the city a penalty of one hundred (100) dollars for each parcel of land so transferred as provided in the Kentucky Revised Statutes. The City may, by action in the Circuit Court, enjoin the transfer land as provided in the Kentucky Revised Statutes.

ARTICLE IX

ADOPTION

In accordance with Kentucky Revised Statutes, before adoption of these Subdivision Regulations or any amendment thereto, a public hearing shall be held by the Planning Commission; a public notice of the time and place shall be published in a newspaper of general circulation within the jurisdiction of these regulations between seven to twenty-one days before the hearing.

These rules and regulations shall be in full force and effect from and after their adoption and effective date.

Adopted \_\_\_\_\_

Effective \_\_\_\_\_

APPENDIX

I. PRELIMINARY PLAT - CHECK LIST

II. SUGGESTED FORMS FOR FINAL PLAT CERTIFICATION

Form 1 Certificate of Ownership and Dedication

Form 2 Certificate of Accuracy

Form 3 Certificate of the Approval of Water and Sewerage System

Form 4 Certificate of Approval for Recording

III. FINAL PLAT - CHECK LIST

PRELIMINARY PLAT - CHECK LIST

Name of subdivision \_\_\_\_\_

Location \_\_\_\_\_

Owner \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

Surveyor or Engineers \_\_\_\_\_

Address \_\_\_\_\_

Date submitted for Preliminary Plat approval \_\_\_\_\_

Check List

\_\_\_\_\_ Copies submitted 15 days prior to hearing.

\_\_\_\_\_ Notification of hearing to subdivider and adjoining property owners.

\_\_\_\_\_ Copies sent to City (or County) Engineer and City (or County) Health Officer for recommendations

\_\_\_\_\_ Copies of private deed restrictions, if any.

\_\_\_\_\_ Map (drawn to scale of not less than 1" equals 200") contents:

\_\_\_\_\_ Name and location of subdivision

\_\_\_\_\_ Name of owner and surveyor

\_\_\_\_\_ Names of adjoining owners and/or subdivisions

\_\_\_\_\_ Date, north point, and graphic scale

\_\_\_\_\_ Acreage of land to be subdivided

\_\_\_\_\_ Boundary lines of tract to be subdivided

\_\_\_\_\_ Proposed lot lines and lot numbers

\_\_\_\_\_ Contours at not more than 5' intervals

\_\_\_\_\_ Location of platted streets and easements, within and adjacent to the tract, water courses, existing sewers, water mains, and culverts

\_\_\_\_\_ Land subject to flood noted (if applicable)

\_\_\_\_\_ Proposed street layout.  
\_\_\_\_\_ Profiles (1" equals 20") with grades indicated  
if required  
\_\_\_\_\_ Cross-section (pavement width, sidewalks)  
\_\_\_\_\_ Street names  
\_\_\_\_\_ Plans and profile of proposed sanitary sewer.  
\_\_\_\_\_ Plans and profile of proposed water system.  
\_\_\_\_\_ Building setback lines.  
\_\_\_\_\_ Public dedications and reservations of land, if any.

Approved \_\_\_\_\_ to proceed to final plat. Subject to  
(date)

following modifications: \_\_\_\_\_  
\_\_\_\_\_

Variances granted: \_\_\_\_\_  
\_\_\_\_\_

Disapproved: \_\_\_\_\_ For the following reasons: \_\_\_\_\_  
(date)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUGGESTED FORMS FOR FINAL PLAT APPROVAL

Form 1  
(on plat)

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building restriction lines, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

\_\_\_\_\_, 19\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

Form 2  
(on plat)

CERTIFICATE OF ACCURACY

I hereby certify that the plan shown and described hereon is a true and correct survey to the accuracy required by the Benton Planning Commission and that the monuments have been placed as shown hereon, to the specifications of the County Engineer or the City Engineer.

\_\_\_\_\_, 19\_\_  
Date

\_\_\_\_\_  
Registered Engineer or Surveyor

Form 3  
(on Plat)

CERTIFICATION OF THE APPROVAL OF WATER AND SEWERAGE SYSTEMS

I hereby certify that the water supply and sewage disposal utility systems installed, or proposed for installation, in the subdivision plat entitled: \_\_\_\_\_  
\_\_\_\_\_ fully meet the requirements of the Kentucky State Health Department, and are hereby approved as shown.

\_\_\_\_\_, 19\_\_  
Date

\_\_\_\_\_  
City or County Health Officer or  
Approving Agent

Form 4  
(on plat)

CERTIFICATE OF APPROVAL FOR RECORDING

I hereby certify that the subdivison plat shown hereon has been found to comply with the Subdivision Regulations for Kentucky, with the exception of such variances, if any, as are noted in the minutes of the Planning Commission and that it has been approved for recording in the office of the County Clerk.

\_\_\_\_\_, 19\_\_  
Date

\_\_\_\_\_  
Chairman or Secretary, Planning  
Commission

FINAL PLAT - CHECK LIST

Name of subdivision \_\_\_\_\_

Location \_\_\_\_\_

Owner \_\_\_\_\_ Address \_\_\_\_\_ Tel. \_\_\_\_\_

Surveyor or Engineer \_\_\_\_\_

Address \_\_\_\_\_ Tel. \_\_\_\_\_

Preliminary Plat approval granted: \_\_\_\_\_

Submitted for Final Plat approval: \_\_\_\_\_

Check List

\_\_\_\_\_ Submitted within 1 year of preliminary approval.

\_\_\_\_\_ Original and \_\_\_\_\_ prints submitted 15 days prior to meeting.

\_\_\_\_\_ Certificate of ownership and dedication (Form 1).

\_\_\_\_\_ Certificate of accuracy (Form 2).

\_\_\_\_\_ One print transmitted to City Engineer and City (or County) Health Officer.

\_\_\_\_\_ Certification of the approval of water and sewerage systems (Form 3 attached).

\_\_\_\_\_ Private deed restrictions on or attached to plat.

\_\_\_\_\_ Map (drawn to scale of not less than 1" equals 100') contents:

\_\_\_\_\_ Name and location of subdivision

\_\_\_\_\_ Date, true north point, graphic scale

\_\_\_\_\_ Reservations, easements, or other non-residential areas

\_\_\_\_\_ Location and description of all monuments

\_\_\_\_\_ True bearings and distances to nearest established control points or official monuments

\_\_\_\_\_ Boundary lines of tract with accurate bearings and lengths

\_\_\_\_\_ Land subject to flood noted (if applicable)

\_\_\_\_\_ All dimensions to the nearest 100th of a foot and all angles to the nearest minute

\_\_\_\_\_ Length of all arcs - radii, points of curvature and tangent bearings

\_\_\_\_\_ Lot lines, street lines and street names

\_\_\_\_\_ Building setback lines

\_\_\_\_\_ Lots numbered

\_\_\_\_\_ Names, locations of adjoining properties and streets

\_\_\_\_\_ Street profiles and cross-sections (if required)

\_\_\_\_\_ Required physical improvements have been made or to be posted in the amount of \$ \_\_\_\_\_.

\_\_\_\_\_ Certificate of approval for recording.

\_\_\_\_\_ Original drawing and one print of Final Plat returned to owner for recording.

Approved for Recording \_\_\_\_\_ (date). Variances granted \_\_\_\_\_

Disapproved \_\_\_\_\_ (date) for the following reasons: \_\_\_\_\_

# SUBDIVISION JURISDICTION BENTON, KENTUCKY

